

ROCHESTER CITY COUNCIL

REGULAR MEETING

JANUARY 20, 2009

Present - President Santiago, Councilmembers Conklin, Miller, Palumbo, Pritchard, Spaul - 6.

Absent - Councilmembers Lightfoot, McFadden, Warren - 3.

The Council President requested the Council to rise for a Moment of Silence.

Pledge of Allegiance to the Flag of the United States of America.

Recognition Ceremony

Retirement:

FIN

*Isabel R. Indovina

RFD

* Regina I. Quartley
* Michael J. Ruggero
* Daniel P. McBride

RPD

* Patricia DiGennaro
Jonathan S. Northrup

RPL

Paula Vee Smith

**Not attending meeting.*

APPROVAL OF THE MINUTES

By Councilmember Conklin

RESOLVED, that the minutes of the Regular Meeting of December 23, 2008 be approved as published in the official sheets of the Proceedings.

Passed unanimously.

COMMUNICATIONS FROM THE MAYOR, COUNCIL PRESIDENT, CORPORATE OFFICERS AND OTHERS.

The following communications are hereby directed to be received and filed:

The Mayor submits the following:

Quarterly Reports

Professional Services Agreements 3946-7

Notice Of Environmental Determination (2) 3947-7, 3948-7

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THE COUNCIL PRESIDENT --- PRESENTATION AND REFERENCE OF PETITIONS AND
REMONSTRANCES. None presented.

PUBLIC HEARINGS.

Pursuant to law public hearing will now be had on the following matter:

Authorizing Amendatory 2004-05, 2006-07 And 2007-08 Community Development Program Plans,
Amending Ordinance No. 2008-259 And Authoring A Loan Agreement For The Erie Harbor Project
Int. No. 5 No speakers.

Changing The Zoning Classification Of 431 West Main Street From C-2 Community Center To CCD-M
Center City-Main Street Int. No. 6 No speakers.

Changing The Zoning Classification Of 488-546 South Clinton Avenue From C-2 Community Center to
CCD-B Center City-Base Int. No. 7 No speakers.

Local Improvement Ordinance - Care And Embellishment Of Various Neighborhood Street Malls For
2009-10 Int. No. 11 No speakers.

Authorizing An Amendatory 2006-07 Community Development Program Plan To Transfer Funds To
The Job Creation/Youth Development Account Int. No. 15 No speakers.

REPORTS OF STANDING COMMITTEES
AND ACTION THEREON

By Councilmember Conklin
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To the Council:

The Finance Committee recommends for Adoption the following entitled legislation:

Int. No. 1 - Resolution Amending The Rules Of Council

Int. No. 16 - Resolution Approving Appointment To The Municipal Civil Service Commission

Int. No. 17 - Cancellation Of Taxes And Charges

The following entitled legislation is being Held in committee:

Int. No. 30 - Local Law Amending The City Charter With Respect To Inspection Warrants

Int. No. 31 - Amending The Municipal Code With Respect To Inspection Warrants

Respectfully submitted,
Carolee A. Conklin
Lovely A. Warren
FINANCE COMMITTEE

Received, filed and published

TO THE COUNCIL
Ladies and Gentlemen:

Re: Resolution No. 2009-1
Rules of Council

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Transmitted herewith for your approval is legislation amending the Rules of Council in regard to the "Speak to Council" portion of the meeting. As you know, the procedures for the "Speak to Council" session that precedes the regular meeting have been relatively unchanged for over twenty years. Following a large turnout of speakers at the November Council Meeting, it has been suggested that the Rules be amended to provide more flexibility and a greater assurance that citizens who wish to address Council will have that opportunity.

The proposed changes can be summarized as follows:

- A minimum time of two minutes will be provided for each speaker, along with a maximum of three minutes;
- Speakers on the "A List" will be assured of an opportunity to speak, even if it means delaying the scheduled 8:00 Council Meeting start time;
- Speakers on the "B List" who have not had the opportunity to be heard prior to the Council Meeting will be permitted to speak either at the end of the Council Meeting, when the "Speak to Council" will be reconvened, or to be at the top of the list for the subsequent Council Meeting.

These changes are a part of City Council's ongoing commitment to openness and receptivity to citizen input in the functioning of the City government.

Respectfully submitted,
Gladys Santiago
President

Resolution No. 2009-1
(Int. No. 1)

Resolution Amending The Rules Of Council

BE IT RESOLVED, by the Council of the City of Rochester as follows:

Section 1. Resolution No. 2008-04, the Rules of Council, for the years 2008-09, is hereby amended by the following changes to Section VII:

- VII. PERMISSION FOR PERSONS TO SPEAK BEFORE THE COUNCIL -- For one hour prior to roll call at the commencement of a Council meeting, the President of the Council may allow any person to speak to the Council upon the following terms and conditions:
1. In order to speak, a citizen must notify the Clerk's Office before 6:00 p.m. on Council meeting nights.
 2. The citizen must specify to the Clerk the subject of his or her remarks.
 3. The Clerk will prepare two lists of scheduled speakers:
 - A. Those wishing to speak on items which are on the agenda for that Council meeting and which are not the subject of a public hearing.
 - B. All other speakers.
 4. The lists shall be in the order that citizens notified the Clerk's Office.
 5. Each speaker will be allotted no less than two (2) minutes and no more than three (3) minutes. [In the event that there are more than twenty (20) speakers, t]The President will divide sixty (60) minutes by the number of speakers on both lists to determine the amount of time allotted to each speaker.

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6. The President will call the speakers in order as listed on List A, and after completing List A, the speakers on List B, giving each the amount of time determined in paragraph 5 above.
7. If there are [A]any [listed] speakers on List A not reached by 8:00 p.m., the time for Speak to Council will be extended to allow all speakers on that List to be heard. If there any speakers on List B who have not had the opportunity to speak before the Council Meeting begins, they will be invited either to speak at the conclusion of the Council Meeting or to return to the next Council session when their names will be placed at the top of the [respective lists] appropriate List.
8. Speakers must relinquish the podium at the end of their allotted time.
9. In the event that the President shall determine that any speaker is violating any of the Rules of Council, the President, in the President's discretion, may cause the meeting to be recessed.

Section 2. This resolution shall take effect immediately.

Bracketed material deleted; underlined material added.

Adopted unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Resolution No. 2009-2
Re: Appointment - Civil Service
Commission

Transmitted herewith for your approval is legislation confirming the appointment of Elizabeth Ortiz, 181 Dickinson Street, Rochester, New York, 14621 to the Civil Service Commission. Ms. Ortiz will fulfill the unexpired term of Sandra Simon, who resigned from the Commission when she accepted a position with the City.

Ms. Ortiz' term expires on May 31, 2010.

A copy of Ms. Ortiz' resume is on file with the City Clerk.

Respectfully submitted,
Robert J. Duffy
Mayor

Resolution No. 2009-2
(Int. No. 16)

Resolution Approving Appointment To The Municipal Civil Service
Commission

BE IT RESOLVED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the appointment of Elizabeth Ortiz, 181 Dickinson Street, to the Municipal Civil Service Commission for a term which shall expire on May 31, 2010. Ms. Ortiz shall replace Sandra Simon, who has resigned.

Section 2. This resolution shall take effect immediately.

Adopted unanimously.

TO THE COUNCIL

January 20, 2009

Ladies and Gentlemen:

Ordinance No. 2009-1
Re: Cancellation or Refund of
Erroneous Taxes and Charges

Transmitted herewith for your approval is legislation approving the cancellation or refund of taxes and charges totaling \$22,200.00.

One property, 850 St. Paul Street, requires a partial cancellation of Code Violation Charges in the amount of \$22,200.00. The building was subdivided without receipt of all of the required approvals. Code Violation Charges in the amount of \$3,600.00 remain as a tax lien against the property.

If this cancellation is approved, total cancellations thus far for 2008-09 will be \$2,227,044.78.

	<u>Accounts</u>	<u>Amounts</u>
City Council	223	\$2,183,452.00
Administrative	104	43,592.78
Total	327	\$2,227,044.78

These cancellations represent .946% of the taxes receivable as of July 1, 2008.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-1
(Int. No. 17)

Cancellation of Taxes and Charges

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The City Treasurer is authorized to cancel the following taxes and charges.

- (A) Partial cancellation of Code Violation Charges for illegal subdivision of a building. A total of \$3,600.00 in Code Violation Charges shall remain on the tax roll for the property, with all past interest related to code violation charges being cancelled.

<u>S.B.L. #</u>	<u>Class</u>	<u>Address</u>	<u>Tax Year</u>	<u>Amount Cancelled</u>
106.370-0003-031.1	NH	850 St. Paul St.	2008	\$ 6,000.00
			2007	13,200.00
			2006	<u>3,000.00</u>
Total				\$22,200.00

Section 2. If full or partial payment of the aforesaid taxes and charges has been made and received, the City Treasurer is hereby authorized and directed to remit to the owner of the parcel the amount of said payment without interest.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Introductory No. 30 and
Introductory No. 31

January 20, 2009

Re: Inspection Warrants

Transmitted herewith for your approval is legislation to amend the City Charter and Municipal Code with respect to the issuance of inspection warrants for civil enforcement purposes. The Charter amendments set guidelines by which the City can obtain a warrant to conduct inspections for compliance with provisions of law relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises located within the City. The Municipal Code amendments are technical in nature and merely conform the wording in the Code to the inspection warrant nomenclature that is used in the Charter.

Enforcement of the Code provisions relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises located within the City has always been a high priority for the Mayor and the City Council. In addition, the City is required by the State of New York to enforce laws such as the New York State Uniform Fire Prevention and Building Code. Much of the City's housing stock is old and in a deteriorated condition. Some property uses are illegal, dangerous, and create a nuisance for residents and neighbors. The City has recognized the problems caused by these uses and has passed local legislation to regulate them. Certificates of occupancy must be obtained on a regular basis for most rental units in order to show that the units are in substantial compliance with code requirements. The Lead Paint Poisoning Prevention Ordinance is designed to protect the health of City children. The Zoning Code establishes standards for different uses in the various zoning districts. All of these codes require inspections in order to assure code compliance, the safety of citizens, and the peace and tranquility of City neighborhoods. The ability of City inspectors to enter a premises to conduct inspections for code compliance cannot be allowed to rest solely on the consent of the owner or tenant in possession of the premises. If that were the case, the owner or tenant would have the final say over whether a property had to be maintained in a safe condition. Fire safety, lead paint poisoning and other serious health and safety concerns can only be addressed by inspections of the interiors of premises. Often, residents are not even aware of the dangers to themselves, their young children and neighbors that may be presented by their dwellings. These amendments are designed to establish reasonable guidelines for the issuance and execution of inspection warrants in the City, so that warrants may be readily obtained when necessary to assure code compliance.

The vast majority of owners and tenants in the City of Rochester (87%) voluntarily comply with code provisions. However, the large number of absentee owners, the age of the City housing stock, our proactive Lead Ordinance and property code program, and the difficulty in obtaining consent for necessary inspections from a small percentage of our population, leave some of our most vulnerable citizens and neighborhoods in jeopardy. This legislation is recommended because we simply cannot allow code compliance to depend upon the decision of a tenant or owner to consent to an inspection. Regular inspections of commercial uses such as amusement and entertainment venues which attract large crowds are necessary to ensure compliance with important fire safety measures. Visitors to an entertainment or amusement center are unlikely to know whether the center has a required sprinkler system or approved exits. Unfortunately, non-compliance with such codes has contributed to horrific fires around the country that have resulted in a tremendous loss of life. We would not allow the owner of a restaurant to decide whether an inspection of food preparation areas is necessary, and we should also take the same position when it comes to inspection of rental housing and other premises. The enforcement of code provisions is especially important to a large number of residents of the City, such as children, the disabled and the elderly, who may be unable to recognize the dangers in their premises or to take the necessary steps to protect themselves. The City has required that dust wipes be performed in certain premises because the dangers caused by lead paint may not be visible and because of the devastating effect that lead paint hazards may have upon young children. Carbon monoxide poisoning is another extreme hazard that may not be easily recognized by building residents. Proper enforcement requires entry by City inspectors when consent has been denied. These amendments provide inspectors with a needed tool in our efforts to protect City residents and visitors.

This legislation will assist the City in obtaining necessary warrants to inspect properties where the owner has applied for a certificate of occupancy or another license or permit, and consent for an inspection has been denied. At present, there are approximately 24 such cases. This legislation will also assist in the enforcement of complaints involving illegal occupancies and the Lead Paint Poisoning Prevention Ordinance. The City also receives complaints about persons residing in unapproved units, often in basements or attics which pose extreme danger. Inspectors have not been allowed to inspect all of these units, and the legal use of the space or compliance of possible building alterations with code requirements remains in question. Tragically, in the disastrous fire at 33 Upton Park, the fire started and one resident died in a living room that had been converted into a bedroom without approved plans or an inspection. The

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same landlord had delayed inspections at other properties he owned which also were found upon inspection to have unapproved occupancies and building alterations which endangered the health and safety of tenants.

Efforts to educate residents concerning the dangers of lead paint and to implement the Lead Paint Poisoning Prevention Ordinance have been very successful overall. However, at present there are approximately 1150 outstanding cases in which a visual inspection has been conducted but a dust wipe test has not been performed, leaving tenants and owners at risk. Since lead paint dangers are often not open and obvious, the occupants may not be aware of the dangers or their serious consequences for young children who may be present. Regular and consistent outreach efforts via letters and phone calls, and enforcement actions including ticketing, have not remedied the situation.

The United States Supreme Court and the New York State Court of Appeals provide the authority and constitutional guidelines for the issuance of inspection warrants. The United States Supreme Court in decisions such as Camara v. Municipal Court of the City and County of San Francisco, 387 U.S. 523 (1967) and See v. City of Seattle, 387 U.S. 541 (1967), and the New York State Court of Appeals in Sokolov v. Village of Freeport, 52 N.Y.2d 341 (1981), have recognized the right of persons to require a warrant for inspections of premises in certain circumstances and have established standards for the issuance of such warrants. The City Charter amendments establish local procedures within these constitutional guidelines for the issuance of warrants to assist the City in the civil enforcement of code provisions. The amendments will not only provide guidance to City employees applying for and executing the inspection warrants, but will also allow citizens to understand the inspection warrant process. The legislation requires prior notice to owners or tenants in possession of the property in most cases, provides responsible persons with the ability to schedule an inspection, and establishes guidelines by which the inspections will be performed. At present, most inspection warrants are issued through use of criminal procedures, which do not recognize and are not easily adapted to serve inspection needs.

Criminal search warrants differ significantly from inspection warrants and criminal search warrant procedures are often poorly suited to inspections for civil enforcement purposes. Criminal search warrants authorize the seizure by a police officer of specific property evidencing commission of an offense and are based on probable cause. Criminal search warrants are executed without prior notice and often by force. They must be executed within a short time period (10 days) because they are issued upon the basis that specific evidence of a crime is present at the time of the warrant application.

An inspection warrant will direct authorized City code enforcement personnel to conduct an inspection of a premises for civil enforcement purposes. Such warrants may authorize the photographing, recording or non-destructive testing of property or physical conditions to enforce the code provisions. An inspection warrant may be issued for inspections based on credible evidence of code violations, inspections to comply with legislative or administrative standards, inspections required in conjunction with the issuance of required permits, or inspections to assure that previous violations have been corrected. Such warrants may be executed by authorized code enforcement personnel. Police officers will only accompany code enforcement personnel when there are specific safety concerns. The time period for execution of an inspection warrant is increased to 45 days because the warrant is not predicated upon the immediate seizure of evidence. This additional time will allow inspections to be scheduled with the responsible persons.

The guidelines and procedures established by this legislation place restrictions on City powers already recognized by the courts. Courts have approved the issuance of inspection warrants for code compliance without similar protections. The prior notice requirements contained in this legislation are above and beyond any currently recognized requirements and minimize the impact of inspection warrants on City residents. Judicial review and oversight of inspection warrants is fully maintained, but the judicial authority to issue warrants is constrained in certain respects. Inspection warrants may only be executed during reasonable hours between 7 a.m. and 8 p.m., and without the use of force. Owners and occupants will also have the opportunity to schedule the inspection at a convenient time, as opposed to being fully subject to the schedule of the inspector. The strict time requirements for execution of a warrant are relaxed from 10 days to 45 days in order to allow for the convenient scheduling of inspections. Issues relating to compliance with the requirements of an inspection warrant will be determined by the court through application by an owner or occupant or through application by the City pursuant to the contempt procedures set forth in the Judiciary Law.

Respectfully submitted,
Robert J. Duffy

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Mayor

Introductory No. 30

LOCAL LAW AMENDING THE CITY CHARTER WITH RESPECT
TO INSPECTION WARRANTS

BE IT ENACTED, by the Council of the City of Rochester as follows:

Section 1. Chapter 755 of the Laws of 1907, entitled "An Act Constituting the Charter of the City of Rochester", as amended, is hereby further amended by amending Article I by designating the current Sections 1-1 through 1-8 as Part A, General Provisions, and by adding thereto a new Part B, Judicial Warrants for Inspections of Premises, to include the current Section 1-9, Inspections for code compliance, as amended and renumbered as Section 1-11 herein, and the following new Sections 1-9, 1-10 and 1-12 through 1-25; which Part B shall read in its entirety as follows:

Part B. Judicial Warrants for Inspections of Premises.

§ 1-9. Purpose and authority.

In order to promote the health and safety of its residents and visitors, the City enforces numerous laws relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises. These laws include laws such as the New York State Uniform Fire Prevention and Building Code, which the City is required to enforce on behalf of the State. In many instances, enforcement is possible only through inspections conducted in or on the premises itself. Most owners and occupants of a premises consent to necessary inspections and, when violations are found, promptly make corrections necessary to bring the premises into compliance with applicable codes. However, the City has recently encountered increasing numbers of owners and/or occupants who do not allow, fail to schedule, or unduly delay inspections. The City has particularly found this to be the case in the enforcement of provisions significantly affecting the health or safety of City tenants, such as the Lead-Based Paint Poisoning Prevention Code, found in Article III of Chapter 90, the Property Conservation Code. The City cannot allow the enforcement of these important health and safety codes to rest upon the desires of the owner or occupant of the premises. The enforcement of these provisions is especially important to a large number of residents of the City, such as children, the disabled and the elderly, who may be unable to recognize the dangers in their premises or to take the necessary steps to protect themselves. The United States Supreme Court and the New York State Court of Appeals have recognized the right of persons to require a warrant for inspections of premises in certain circumstances and have established standards for the issuance of such warrants. While New York Courts have issued warrants for the inspection of premises on the basis of the Supreme Court and New York Court of Appeals decisions and have applied in part the procedures for search warrants established in the Criminal Procedure Law, New York State statutes do not establish specific procedures or requirements for the issuance of warrants for inspections of premises. In the absence of State statutes, the City wishes to establish guidelines which meet constitutional requirements for the issuance by the courts of judicial warrants for the inspection of premises within the City. Such guidelines are particularly appropriate in the City due to absentee ownership of a significant number of premises, the age of City housing, and the difficulty in obtaining consent for necessary inspections. The guidelines will provide a process for issuing such warrants and will apprise landlords, tenants and all persons of the procedures and requirements to be followed by the City in obtaining and executing inspection warrants. These provisions will promote the health, safety and welfare of the City and all of its residents and visitors. Authority for the adoption of such guidelines is found in, but not limited to, the home rule and police powers found in Article IX, Section 2 of the New York State Constitution, Section 10 of the Municipal Home Rule Law and Section 20 of the General City Law, and are necessary for the proper administration and enforcement by the City of the Uniform Fire Prevention and Building Code as required in 19 NYCRR Part 1203, promulgated pursuant to Section 381 of the Executive Law.

§ 1-10. Definitions.

As used in this Part, the following terms shall have the meanings indicated:

DESIGNATED CITY OFFICER OR EMPLOYEE - An officer or employee of the City of Rochester who occupies a position in which he or she is authorized by New York State Law or the City Charter of the City of Rochester to enforce the PROPERTY CODES in the City.

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INSPECTION WARRANT or JUDICIAL WARRANT FOR INSPECTION OF PREMISES - A written order signed by a Judge of the Rochester City Court, Monroe County Court or New York State Supreme Court directing a designated City officer or employee to conduct an inspection of a premises for civil enforcement purposes only in conjunction with the administration and enforcement of the PROPERTY CODES, which inspection may include the photographing, recording or non-destructive testing of property or physical conditions found thereon or therein.

PREMISES - A lot, plot or parcel of land, together with the buildings and structures thereon.

PROPERTY CODE - The Property Conservation Code, Building Code, Plumbing Code, Fire Prevention Code, Zoning Code, Health Ordinance, New York State Uniform Fire Prevention and Building Code, or any other Federal, State, County or City law, ordinance, rule or regulation relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises located within the City.

§ 1-11. Inspections for code compliance.

No local law or ordinance of the City shall be construed to require a person to consent to an inspection of a premises in order to determine compliance with applicable code provisions. However, this provision shall not be construed to remove the obligation of a person to apply for and secure a required license, permit, certificate or other City approval relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises. When applying for a license, permit, certificate or other City approval which calls for an inspection, a person shall have the right to decline to consent to the inspection, and the issuing authority may, without further notice to the applicant, apply for an inspection warrant to conduct the required inspection. However, if the premises is occupied, notice to the occupant or other person with apparent right of possession in accordance with § 1-14 shall be required.

§ 1-12. Right of entry.

In the performance of official duties, subject to the further requirements established in this Part and the obtaining of a warrant when the same is constitutionally required, designated City officers or employees may enter premises to enforce the Property Codes.

§ 1-13. Entry without notice or inspection warrant.

This Part shall not be construed to require either an inspection warrant or prior notice to enter or inspect a premises under circumstances in which a warrant is not constitutionally required.

§ 1-14. Notice of intent to conduct inspection.

Before an application may be made for an initial inspection warrant, the designated City officer or employee must give prior notice of his or her intent to conduct an inspection to the occupant or other person with apparent right of possession or, in the case of an unoccupied premises, to the owner, the owner's agent or other person in apparent control of the premises. No notice is required to an applicant who has declined to consent to an inspection when applying for a license, permit, certificate or other City approval which calls for an inspection. No further notice is required before additional inspection warrants are sought to inspect a premises, including warrants to re-inspect a premises to determine if cited violations have been corrected, or additional warrants necessitated by the expiration of a warrant before an inspection could be completed, in the same case or any cases relating to the same premises and arising concurrently.

§ 1-15. Contents of notice.

The notice of intent to conduct an inspection shall:

- A. State the date and time at which the designated City officer or employee will be present to conduct an inspection;
- B. Inform the person notified that he or she may reschedule the inspection to a reasonable date and time by contacting the designated City officer or employee before the stated date; and

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- C. Advise that if the inspection is not allowed to be conducted, the designated City officer or employee may make an application to Rochester City Court, Monroe County Court or New York State Supreme Court for an inspection warrant.

§ 1-16. Service of notice when premises is occupied.

If the premises is occupied, the notice of intent to conduct an inspection must be either sent by first class mail or personally delivered to the occupant or person with apparent right of possession. The notice shall be addressed to the occupants of record if their names are provided to the City by the owner in writing, otherwise notice shall be sufficient if addressed to the "occupant" of the particular unit.

§ 1-17. Service of notice when premises is unoccupied.

If the premises is unoccupied, the notice of intent to conduct an inspection must be mailed by first class mail to the owner's tax mailing address for the premises or be personally served upon the owner.

§ 1-18. Inspection warrant application with prior notice.

A Department Head or a designated City officer or employee authorized by the Department Head may make an application to Rochester City Court, Monroe County Court or New York State Supreme Court for an inspection warrant to conduct an inspection after notice of intent to conduct an inspection has been given, if the person notified does not allow, fails to schedule, or unduly delays the inspection.

§ 1-19. Inspection warrant application without prior notice.

A Department Head or a designated City officer or employee authorized by the Department Head may apply for an initial inspection warrant without giving the prior notice of intent to conduct an inspection as required by §1-14 if there is credible evidence to believe that a violation of a Property Code exists which immediately and significantly endangers the health or safety of any person.

§ 1-20. Authority to seek inspection warrant.

A Department Head or a designated City officer or employee authorized by the Department Head may make an application in accordance with this Part to Rochester City Court, Monroe County Court or New York State Supreme Court for an inspection warrant to conduct an inspection or to take any other authorized action to administer and enforce the Property Codes.

§ 1-21. Factors to be considered when applying for an inspection warrant.

A Department Head shall consider whether one or more of the following guidelines have been met in determining whether to authorize an application for issuance of an inspection warrant:

- A. There is credible evidence to believe that the construction, alteration, maintenance, repair, operation, use, condition or occupancy of the subject premises is in violation of any applicable Property Code; or
- B. Reasonable legislative or administrative standards for conducting an inspection in conjunction with the administration and enforcement of the Property Codes are satisfied with respect to the subject premises and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises; or
- C. An application for a Certificate of Occupancy, Business Permit, permit, license or other similar instrument which authorizes the construction, alteration, maintenance, repair, operation, use, condition or occupancy of the premises has been submitted and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises; or
- D. A re-inspection of the premises is necessary to determine whether previously cited violations of the Property Codes have been corrected, and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises.

§ 1-22. Applications for inspection warrants.

The application for an inspection warrant must:

- A. Be in writing, stating the name of the Court to which it is addressed;
- B. State the name, department, title and code enforcement authority of the Department Head or the designated City officer or employee authorized by the Department Head who is the applicant;
- C. State the date of the making of the application;
- D. Describe the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted in order to assure that any observations, findings and evidence obtained through execution of the inspection warrant shall be restricted to use in civil enforcement proceedings only;
- E. Identify the premises to be entered and inspected in sufficient detail and particularity so that the designated City officer or employee executing the inspection warrant may readily ascertain the premises;
- F. In cases where prior notice of intent to conduct an inspection is required, provide specific information showing how and when notice has been given, and how the inspection has not been allowed, has not been scheduled, or has been unduly delayed by the person notified;
- G. State facts based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated, sufficient to demonstrate probable cause for the issuance of an inspection warrant;
- H. Be subscribed and sworn to by the applicant; and
- I. Request that the Court issue an inspection warrant directing an inspection of the subject premises for civil enforcement purposes only, which inspection may include the photographing, recording or non-destructive testing of property or physical conditions found thereon or therein, subject to such limitations and restrictions as may be provided by the Court.

§ 1-23. Issuance of an inspection warrant.

- A. Determination of application.
 - (1) In determining an application for an inspection warrant, the Court may examine, under oath, any person whom it believes may possess pertinent information. Any such examination may be recorded or summarized on the record by the Court.
 - (2) If the Court is satisfied that there is probable cause to issue an inspection warrant, it may grant the application and issue an inspection warrant directing an inspection of the premises described in the application, subject to such limitations and restrictions as may be provided by the Court.
 - (3) The inspection warrant may be requested in the form of an original and two copies.
- B. The City shall prepare and attach to its application to the Court a proposed inspection warrant for its consideration which may:
 - (1) Be in writing, stating the name of the issuing Court and containing a signature line for the subscription of the issuing judge;
 - (2) State the name, department, title and code enforcement authority of the designated City officer or employee authorized to conduct the requested inspection and to whom it is addressed;

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- (3) Contain a place for the Court to indicate the time and date the warrant was issued and the duration of the warrant;
- (4) State the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted in order to assure that any observations, findings and evidence obtained through execution of the inspection warrant shall be restricted to use in civil enforcement proceedings only;
- (5) Identify the premises to be entered and inspected in sufficient detail and particularity so that the designated City officer or employee executing the warrant may readily ascertain the premises to be inspected;
- (6) Provide that a police officer, if requested by the designated City officer or employee for safety purposes, may assist in the execution of the inspection warrant;
- (7) For warrants for inspections of premises containing multiple dwelling units, contain a provision which authorizes a single entry into each unit, which entry need not occur at the same date and time for all units, but which entries must occur before the expiration of the warrant;
- (8) Direct an inspection of the subject premises for civil enforcement purposes only, which inspection may include the photographing, recording or non-destructive testing of property or physical conditions found thereon or therein;
- (9) Direct that the inspection warrant be executed between the hours of 7:00 a.m. and 8:00 p.m., or when the Court has specially so determined based upon the use of the premises at other hours or other special circumstances of the premises, direct execution thereof at other times of the day or night, without the use of force;
- (10) Direct that the inspection warrant authorizing entry to the premises shall be delivered to the occupant at the time of the inspection. The Court may additionally authorize service of the inspection warrant by means of confirmation mail, in which case the inspection warrant shall require the owner and/or occupants to provide the designated City officer or employee with a reasonable date and time to conduct the inspection, which date and time must be within seven (7) days of receipt of the warrant; and
- (11) Contain a notice to the owner and occupants that it is unlawful to willfully deny or unduly delay entry or access to any premises to a designated City officer or employee with an inspection warrant authorizing inspection of said premises, to willfully deny or unduly delay or interfere with the inspection authorized by the warrant, or to willfully fail to timely set a reasonable date and time for an inspection as required by the Court, and that such actions may result in punishment for contempt of court pursuant to Article 19 of the Judiciary Law, which punishment may consist of a fine or imprisonment, or both.

§ 1-24. Execution of an inspection warrant.

- A. Except as provided in Subsection B of this Section, in executing an inspection warrant, the designated City officer or employee authorized by the Court to execute the warrant shall, before entry, make a reasonable effort to present his or her credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant, and to deliver a copy of the warrant to the occupant or person in possession of the premises.
- B. In executing an inspection warrant, the designated City officer or employee authorized to execute the warrant may promptly enter the designated premises if it is or is reasonably believed to be vacant and unsecured. Such designated City officer or employee need not provide notice of his or her authority and purpose as prescribed in Subsection A of this section.

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- C. A police officer may be requested to assist in the execution of the inspection warrant for safety purposes.
- D. An inspection warrant issued shall be executed within:
 - (1) The time specified in the warrant, not to exceed forty-five (45) days; or
 - (2) If no time is specified therein, within forty-five (45) days from its date of issuance.

§ 1-25. Unlawful actions.

It shall be unlawful for any person to willfully deny or unduly delay entry or access to any premises to a designated City officer or employee with an inspection warrant authorizing inspection of said premises, to willfully deny or unduly delay or interfere with the inspection authorized by the warrant, or after receiving a copy of an inspection warrant requiring the scheduling of an inspection, to willfully fail to schedule a reasonable date and time for the inspection as set forth in the inspection warrant. Any person who violates this Section shall be subject to an application to be found in contempt of court pursuant to Article 19 of the Judiciary Law, and punishment as provided for therein may include a fine or imprisonment, or both.

Section 2. This local law shall take effect three weeks after the date of its adoption.

Held in committee.

Introductory No. 31

AMENDING THE MUNICIPAL CODE WITH RESPECT TO
INSPECTION WARRANTS

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Section 39-210 of the Municipal Code, Performance of work under building permit, as amended, is hereby further amended by deleting the word “search” in both places that it appears in Subsection B thereof and by inserting in its place the word “inspection”.

Section 2. Section 40-18 of the Municipal Code, Issuance of a permit, as amended, is hereby further amended by deleting the word “search” in both places that it appears in Subsection E thereof and by inserting in its place the word “inspection”.

Section 3. This ordinance shall take effect immediately.

Held in committee

By Councilmember Warren
January 20, 2009

To the Council:

The Neighborhood & Community Development Committee recommends for Adoption the following entitled legislation:

Int. No. 2 - Authorizing The Sale Of Real Estate

Int. No. 3 - Appropriating Funds For The Neighbors Building Neighborhoods Program

Int. No. 4 - Extending Rights Relating To The Plymouth Gardens, Seth Green Park And Cobbs Hill Village Housing Projects

January 20, 2009

Int. No. 18 - Amending Chapter 90 Of The Municipal Code, Property Conservation Code, To Establish A Building Owner's Registry

Int. No. 20 - Amending The 2008-09 Budget For Lead Poisoning Prevention

Int. No. 32 - Authorizing An Agreement For Development Of A Brown Square Park Festival Site

Int. No. 33 - Authorizing An Application And Agreement For The Neighborhood Stabilization Program

Int. No. 477 - Authorizing Amendatory 2007-08 And 2008-09 Community Development Program Plans And Authorizing Agreements For The Emergency Assistance Repair Program, As Amended

The Neighborhood & Community Development Committee recommends for Consideration the following entitled legislation:

Int. No. 5 - Authorizing Amendatory 2004-05, 2006-07 And 2007-08 Community Development Program Plans, Amending Ordinance No. 2008-259 And Authoring A Loan Agreement For The Erie Harbor Project

Int. No. 6 - Changing The Zoning Classification Of 431 West Main Street From C-2 Community Center To CCD-M Center City-Main Street

Int. No. 7 - Changing The Zoning Classification Of 488-546 South Clinton Avenue From C-2 Community Center to CCD-B Center City-Base

The following entitled legislation is being Held in committee:

Int. No. 19 - Authorizing An Amendatory Agreement For The Focused Investment Strategy

Respectfully submitted,
Lovely A. Warren
Carolee A. Conklin
NEIGHBORHOOD & COMMUNITY DEVELOPMENT COMMITTEE

Received, filed and published.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-2
Re: Sale of Real Estate

Transmitted herewith for your approval is legislation approving the sale of five properties. With the exception of purchasers of unbuildable vacant land, staff has audited City records to ensure that purchasers do not own other properties with code violations or delinquent taxes. The records of the Division of Code Enforcement were also audited to ensure that purchasers have not been in contempt of court or fined as a result of an appearance ticket during the past five years.

The five properties are unbuildable vacant lots that are being sold to the adjoining owners for \$1.00. The purchasers will combine the parcels with their adjoining properties.

The first year projected tax revenue for these five properties, assuming full taxation, current assessed valuations and current tax rates, is estimated to be \$1,396.

All City taxes and other charges, except water charges, against properties being sold by the City will be canceled on the first day of the month following adoption of the ordinance because either the City has agreed to convey the properties free of City tax liens and other charges, or these charges have been included in the purchase price.

Respectfully submitted,

January 20, 2009

Robert J. Duffy
Mayor

Attachment No. AI-1

Ordinance No. 2009-2
(Int. No. 2)

Authorizing The Sale Of Real Estate

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the sale of the following parcels of unbuildable vacant land for the sum of \$1.00:

<u>Address</u>	<u>S.B.L.#</u>	<u>Lot Size</u>	<u>Sq. Ft.</u>	<u>Purchaser</u>
25 Carl St	106.31-1-7	38x94	3,572	Roy McClain
279 Bernard St	106.25-3-53	37x143	5,291	Concilio De Inglesia Cristo Missionera, Inc.*
760 North St	106.41-3-55.1	66x79	5,214	Pablo Cruz
21 Barons St	106.32-3-25	35x135	4,725	Mary Terry
33 Averill Ave	121.63-1-9.3	14x150	2,100	William & Barbara Saunders

* Principals: Rev. Roberto Rios, President; Vilma Bonilla, Trustee; Noelia Alvarado, Trustee; Marilyn Vega, Trustee; Eloy Cruz, Trustee

Section 2. City taxes and other City charges, except water charges, against said properties are hereby canceled up to the first day of the month following the date of adoption of this ordinance for the reason that the City has agreed to convey said properties free of City tax liens and other charges.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2008-3
Consolidated Community
Development Plan, Neighbors
Building Neighborhoods
Appropriation

Transmitted herewith for your approval is legislation appropriating \$2,000 from the Support Neighbors Building Neighborhoods allocation of the 2004-05 Consolidated Community Development Plan for the Neighbors Building Neighborhoods (NBN) Program and authorizing any agreements necessary for program implementation.

As you are aware, the NBN Program provides assistance to neighborhood associations in the preparation of strategic plans and the identification of short- and long-term goals for their sector areas. To date each NBN sector has completed three rounds of action plans and the subsequent implementation of their community strategies and action steps.

The next update of the ten sector action plans are due to be completed by June 2009. The funds will be used for support of the NBN5 planning update process, including the continuation and marketing of these activities, and administrative costs of NBN committees.

Respectfully submitted,
Robert J. Duffy

January 20, 2009

Mayor

Ordinance No. 2009-3
(Int. No. 3)

Appropriating Funds For The Neighbors Building Neighborhoods
Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. There is hereby appropriated from the Neighbors Building Neighborhoods allocation of the 2004-05 Community Development Program the sum of \$2,000, or so much thereof as may be necessary, to fund the Neighbors Building Neighborhoods Program.

Section 2. The Mayor is hereby authorized to enter into such agreements as may be necessary to implement the Program.

Section 3. The agreements shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-4
Re: Agreements - Plymouth Gardens,
Inc.

Transmitted herewith for your approval is legislation related to the refinancing of three affordable housing projects owned by Plymouth Gardens, Inc. and managed by Rochester Management. This legislation will:

1. Authorize an extension of the reversionary interest of the City in the Seth Green Park and Cobbs Hill Village parcels for 32 years, to October 10, 2041;
2. Authorize an extension of the maturity date of the income debentures connected with each project to the same date, October 10, 2041;
3. Consent to the properties being mortgaged to The Community Preservation Corporation;
and
4. Accept payment in the amount of \$250,000 for the extensions and mortgage consent.

The three projects, Plymouth Gardens, Seth Green Park, and Cobbs Hill Village, were built as affordable senior housing under the Limited Profit Housing Companies Law (now Article 2 of the Private Housing Finance Law). Ownership of the properties on which the apartments are built was conveyed by the City in 1961, 1958 and 1957, respectively. The original agreements for Seth Green Park and Cobbs Hill Village stated that, following completion of mortgage payments, ownership would revert to the City. The agreement for Plymouth Gardens does not provide for the project to revert to the City after a fixed period of time.

The properties are tax exempt as of right under Section 422 of the Real Property Tax Law so long as the premises are maintained and occupied for rental to senior citizens.

The buildings are now in need of major rehabilitation and systems replacement, with costs estimated at \$3.031 million. Refinancing is necessary to fund this expense. Extending the reversion agreement for Seth Green Park and Cobbs Hill Village to cover the term of the new mortgage will allow Plymouth Gardens, Inc. to qualify for funding.

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Rochester Management has agreed to pay the City \$250,000; this amount will be paid as follows:

1. A cash payment of \$65,000 upon completion of the capital projects, estimated in May 2010.
2. Additional payments per year made from available surplus cash of up to \$15,000 per year until a total of \$185,000 is reached. This obligation will exist until the \$185,000 is paid in full.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-4
(Int. No. 4)

Extending Rights Relating To The Plymouth Gardens, Seth Green
Park And Cobbs Hill Village Housing Projects

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with Plymouth Gardens, Inc. relating to rights for the Plymouth Gardens (1331-1455 South Plymouth Avenue, SBL #135.35-1-17.1), Seth Green Park (1685 St. Paul Street, SBL #91.53-1-11.1) and Cobbs Hill Village (645 Norris Drive, SBL #122.62-1-1) Housing Projects. The agreement shall provide for an extension to October 10, 2041 of the date on which ownership of the Seth Green Park and Cobbs Hill Village Housing Projects parcels revert to the City. The agreement shall also provide for an extension to October 10, 2041 of the maturity date of the income debentures connected with the Plymouth Gardens, Seth Green Park and Cobbs Hill Village Housing Projects. The agreement shall also provide consent for a mortgage to the Community Preservation Corporation on the parcels for all of the Projects.

Section 2. The agreement shall obligate Plymouth Gardens, Inc. to pay to the City the sum of \$250,000, payable in the amount of \$65,000 upon completion of improvements to the Projects, and a further amount not to exceed \$15,000 annually until the full amount is paid.

Section 3. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-5
Re: Building Owner Registry

Transmitted herewith for your approval is legislation establishing a Building Owner's Registry for non-owner occupied properties in the City of Rochester. The registry will provide contact information for City staff to use in cases of emergency or substantial property concerns.

The number of properties purchased in the city by non-local owners and/or corporate entities is increasing, making it difficult to determine: 1) the party responsible for keeping a property up to code and free of blight, and 2) whom to contact in the case of fire or other property damage in which quick action can save the property and/or its contents.

Home and cellular phone numbers will be for City staff use only and will not be released to the public, consistent with current practice.

To save on administrative costs and ease compliance for owners, the legislation stipulates that the registry documentation be provided as part of the Certificate of Occupancy (C of O) process. Applicants for a C of O

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or renewal will be provided with a Registry form, and a C of O will not be granted until it is completed and filed. There will be no charge to owners for this program.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-5
(Int. No. 18)

Amending Chapter 90 Of The Municipal Code, Property
Conservation Code, To Establish A Building Owner's Registry

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Chapter 90 of the Municipal Code, Property Conservation Code, as amended, is hereby further amended by adding thereto the following new Section:

§ 90-20. Building owner's registry required.

- A. The owners of all buildings shall register with the City as required herein.
- B. The owners of all buildings existing as of the effective date of this Section shall register upon notice by the Director or upon submission of an application for a new or renewal certificate of occupancy.
- C. The owner of a new building shall register the building prior to allowing occupancy thereof.
- D. The owner of any building already registered with the City shall reregister within 10 days after any change occurs in registration information. A new owner of a registered building shall reregister the building within 10 days of assuming ownership.
- E. The City shall maintain a registry of all buildings containing the following information which shall be provided by the owner on forms available from the City:
 - (1) Name, street address and telephone number of the owner.
 - (2) If the owner is not a natural person, the name, street address and telephone number of the agent, manager or principal person responsible for the property shall also be provided on the application.
 - (3) If the owner is a natural person who has designated an agent, manager or principal person responsible for the property, the name, street address and telephone number of such person shall also be provided on the application.
 - (4) For purposes of this Section, a post office box shall not be accepted as a street address. A telephone number may be designated as a business number, home number or cellular number.
 - (5) All notices of violation and other service of process upon an owner, if mailed, shall continue to be mailed to the owner's tax mailing address if such address has been provided by the owner to the City.
 - (6) The Council finds that the release of home or cellular telephone numbers provided in accordance with this Section would constitute an unwarranted invasion of personal privacy, as these telephone numbers serve the primary purpose of allowing the City to contact responsible persons in an emergency or when property concerns arise.
- F. This Section shall not apply to buildings that are owner-occupied one-family dwellings or owner-occupied two-family dwellings; buildings owned by federal, state or local government units; hospitals; schools, colleges or universities; or commercial or industrial buildings that

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maintain operations for 24 hours each day or that have security on site 24 hours each day.
A single registration shall be required for all buildings on a property.

Section 2. Section 90-16 of the Municipal Code, Certificates of occupancy, as amended, is hereby further amended by adding thereto the following new subsection F(3):

- (3) No certificate of occupancy shall be issued by the Department until the owner has registered with the City as required in Section 90-20.

Section 3. This ordinance shall take effect on July 1, 2009.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-6
Re: Budget Amendment - Monroe
County Funding for Lead
Poisoning Prevention Efforts

Transmitted herewith for your approval is legislation amending the 2008-09 Budget of the Neighborhood Service Centers to reflect the receipt and use of \$147,000 in funding from Monroe County for support of the Primary Prevention of Childhood Lead Poisoning Pilot Program and the City's ongoing efforts to increase the number of units in high risk areas that will be inspected for lead. These funds are part of a grant awarded to the County from the New York State Department of Health.

The County's contribution will support two full-time or equivalent inspection positions, a part-time clerk, and additional lead dust wipe tests. This support will enable the City to increase the number of lead safe housing units for children and families.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-6
(Int. No. 20)

Amending The 2008-09 Budget For Lead Poisoning Prevention

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by increasing the revenue estimates and appropriations to the Neighborhood Service Centers by the sum of \$147,000, which amount is hereby appropriated from funds to be received from the County of Monroe to supplement the Primary Prevention of Childhood Lead Poisoning Pilot Program and the City's lead poisoning prevention efforts.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL:
Ladies and Gentlemen:

Ordinance No. 2009-7
Re: Agreement - Norris Design,
Feasibility Study and Master
Plan for Festival Site at Brown
Square

January 20, 2009

Transmitted herewith for your approval is legislation establishing \$70,000 as maximum compensation for an agreement with Norris Design of Denver, CO, for services related to the development of Brown Square Park, 225 Verona Street, as a festival site; and appropriating \$70,000 from the Neighborhood Improvements Account of the 2005-06 Consolidated Community Development Plan to fund the agreement.

Norris Design, a national parks and recreation planning and design firm, has included Larsen Engineering, a local firm, as part of their team for this project. Together, they will perform a comprehensive site analysis to determine how the Brown Square site fits the requirements for a variety of festivals and other special events. Along with City staff, they will conduct stakeholder interviews and public meetings to identify community concerns and needs.

Based on the site analysis and community input, Norris Design will produce two conceptual design options for the site, incorporating the needed activity areas, infrastructure, and special event/festival amenities. The report will contain short- and long-term recommendations, and options for capital improvements to support festivals and other special events with preliminary cost estimates. The two options will be shared with the community for additional feedback before a site design is finalized.

A Request for Qualifications issued in November 2007, was sent to approximately fifty local architectural and engineering firms with experience in planning and feasibility studies, and was posted on the City and the American Planning Association web sites. Responses were received from eight firms: Clark Patterson Lee (Rochester); EDAW Inc. (New York City); Environmental Design & Research (Syracuse); FRA (Henrietta, NY); KCI Engineering (Rochester); Lu Engineers (Penfield, NY); NAETZKER Urban Works (Rochester); and Norris Design. The internal review committee requested additional information (proposed works plans and budgets) from six firms. After review, the committee requested oral presentations from EDAW, EDR, and Norris. Norris Design is recommended based on the qualifications and experience of the project team, understanding of the project and proposed approach and work program.

Norris Design will act as the lead firm and oversee public input and design for the project. Larsen Engineering will oversee the site analysis, including transportation, environmental, and civil engineering aspects. Team members include experienced park and recreation planning and design professionals with extensive experience in public facilitation, programming, historical preservation and special events.

The project is expected to begin in February 2009 and be completed by June 2009.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-7
(Int. No. 32)

Authorizing An Agreement For Development Of A Brown Square
Park Festival Site

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with Norris Design for services related to the development of a festival site at Brown Square Park.

Section 2. The agreement shall obligate the City of Rochester to pay an amount not to exceed \$70,000, and said amount, or so much thereof as may be necessary, is hereby appropriated from the Improving the Housing Stock and General Property Conditions allocation of the 2005-06 Community Development Program.

Section 3. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed by the following vote:

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Ayes - President Santiago, Councilmembers Conklin, Palumbo, Pritchard, Spaul - 5.

Nays - Councilmember Miller - 1.

TO THE COUNCIL

Ladies and Gentlemen:

Re: Ordinance No. 2009-8
New York State Grant Application -
Neighborhood Stabilization Program
Funds

Transmitted herewith for your approval is legislation authorizing an application to the New York State Housing Finance Agency (HFA) for a grant of Neighborhood Stabilization Program (NSP) funds provided by the US Department of Housing and Urban Development (HUD) and the New York State Affordable Housing Corporation (AHC). The City's application will request up to \$5.5 million.

These grant funds are part of the \$3.9 billion Federal allocation to the Neighborhood Stabilization Program Fund created to address the impact of foreclosures in communities across the nation. The City and Monroe County are eligible to submit a grant proposal for a portion of the New York State allocation of \$53 million. The State has made an additional \$10 million available through the Affordable Housing Corporation and will be awarding those funds through the same application process.

The majority of the grant will support an expansion of the City's Home Rochester program that acquires vacant foreclosed properties, rehabilitates them and sells them to income-qualified, owner-occupant purchasers. In accordance with NSP eligible activities, the funds will be used to: assist in the creation of funding facilities for construction financing; provide subsidies to acquire and renovate homes; demolish property in blighted areas; and redevelop vacant properties.

The Neighborhood Stabilization Fund program requires 40% of the funds to be used for permanent housing units servicing households of less than 50% of area median income. The remainder of the funds can be used to create housing units servicing households up to 120% of area median income. The investment of NSP funds is limited to areas of the greatest need as determined by HUD. All Monroe County census tract block groups that meet HUD's "greatest need" criteria are located within the City of Rochester.

Applications for funding are due on February 10, 2009. Funds will begin to be allocated within four months of award.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-2

Ordinance No. 2009-8
(Int. No. 33)

Authorizing An Application And Agreement For The Neighborhood
Stabilization Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to submit an application to and enter into an agreement with the New York State Housing Finance Agency for Neighborhood Stabilization Program grant funds provided by the United States Department of Housing and Urban Development and the New York State Affordable Housing Corporation.

Section 2. The application and agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. This ordinance shall take effect immediately.

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Passed unanimously.

Introductory No. _____ was introduced _____ and appears in its original form with its transmittal letter on page _____ of the 2008 Council Proceedings.

Attachment No. AI-3

Ordinance No. 2009-9
(Int. No. 477, As Amended)

Authorizing Amendatory 2007-08 And 2008-09 Community
Development Program Plans And Authorizing Agreements For The
Emergency Assistance Repair Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves amendments to the Community Development Program Plans whereby, within the Improving the Housing Stock and General Property Conditions allocations, the sums of \$1,000,000 in 2008-09 and \$100,000 in 2007-08 are transferred from the Residential Assistance Program Accounts to new accounts for the Emergency Assistance Repair Program.

Section 2. There is hereby appropriated from the Improving the Housing Stock and General Property Conditions allocation of the 2008-09 Community Development Program the sum of \$1,000,000 and from the Improving the Housing Stock and General Property Conditions allocation of the 2007-08 Community Development Program the sum of \$100,000, or so much thereof as may be necessary, to fund the Emergency Assistance Repair Program.

Section 3. The Mayor is hereby authorized to enter into such agreements as may be necessary to implement the Emergency Assistance Repair Program. The Mayor shall prepare a quarterly report to be submitted to City Council showing that all neighborhoods in each quadrant have been serviced equitably under the Program. The first report shall be due after the Program has been in operation for six months.

Section 4. The agreements shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 5. This ordinance shall take effect immediately.

Underlined material added.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-10
Re: Erie Harbor/Redevelopment of
River Park Commons

Transmitted herewith for your approval is legislation authorizing a loan in the amount of \$2,000,000 to Conifer Realty LLC, or an affiliated partnership or housing development fund corporation to be formed by Conifer Realty, LLC, for the development of Erie Harbor, which requires the following additional actions:

1. To finance the loan:
 - a. Appropriate \$1,100,000 from the Housing Development Fund of the 2008-09 HOME Program;
 - b. Amend the Consolidated Community Development Plans as follows:

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<u>Year</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
2006-07	NBN Streetscape	Rental Housing Fund	\$250,000
2007-08	NBN Streetscape	Rental Housing Fund	\$250,000
2004-05	Relocation Assistance	Rental Housing Fund	\$400,000

- c. Amend Ordinance No. 2008-259 by reducing the appropriation for Relocation Assistance from the Improving the Housing Stock and General Property Conditions allocation from \$500,000 to \$100,000, and re-appropriating the \$400,000 to fund the above loan; and
2. Appropriate \$500,000 from the Rental Housing Fund of the 2006-07 and 2007-08 Consolidated Community Development Plans to fund the above loan; and
3. Authorize the Mayor to adjust the interest rate and other terms and conditions of the loan in order to conform to legal requirements for tax credits and for the project.

Conifer Realty purchased the general partner interest in River Park Commons in April 2004 and is redeveloping the site as two projects:

Hamilton Apartments includes the rehabilitation of the high-rise, and the environmental remediation of the site. Renovation is expected to be completed by February 2010; the environmental remediation is nearly complete.

Erie Harbor includes the demolition of the existing four low-rise structures, and subsequent redevelopment of approximately 130 units of rental housing, 20% of which will be reserved for low-income households.

The City has committed \$3.3 million to the redevelopment of River Park Commons. Related City Council actions have included the following:

<u>Ord. No.</u>	<u>Purpose</u>
2004-78	Authorized a Memorandum of Understanding with Conifer Realty, LLC
2005-377	Appropriated \$1 million for the Hamilton Apartments
2008-90	Appropriated \$800,000 for relocation of tenants of the low-rise structures
2008-208	Authorized property tax exemption and PILOT agreement (amended by Ord. No. 2008-291)
2008-259	Amended Ord. No. 2005-377 to shift \$500,000 to Erie Harbor, and to shift funding for relocation assistance from a combination of HOME and CDBG funds to solely CDBG funds

Ordinance No. 2008-259 results in City construction/permanent financing of \$500,000 for the Hamilton Apartments, \$2,000,000 for Erie Harbor, and \$800,000 for relocation assistance. Only half of the relocation funds will be needed; the remaining \$400,000 will provide the balance of the \$2,000,000 loan to Conifer, effectively reducing the total City funding required from \$3,300,000 to \$2,900,000.

The \$500,000 in CDBG funds requested above replace the \$500,000 in bond funds allocated for River Park Commons in the 2008-09 Capital Improvement Program. The bond amount will be used for public improvements in eligible neighborhoods, the original purpose of the CDBG funds.

Conifer will use the loan for asbestos abatement and demolition, and for construction and permanent financing for the projects. During asbestos abatement, demolition, and construction, the City loan shall be provided as construction financing at a 1% interest rate. When the loan is converted to permanent financing, the loan will extend for a term of thirty years, with annual interest-only payments of 1% and payment of the principal due in full at the end of the term.

The rezoning of both sites was approved by City Council in December 2008. A Final Environmental Impact Statement (FEIS) was released in November 2008. Relocation of the tenants in the low-rise structures will be complete by February 2009. Conifer anticipates that asbestos abatement on the low-rise structures will

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be completed in time for a Spring 2009 start of demolition. Construction of the new rental structures could start by the end of 2009. Conifer expects to apply for permanent financing in the first quarter of 2009.

Funding for Erie Harbor is as follows:

Source

Mortgages	
Conventional	\$14,473,248
City Loan	2,000,000
HFA Subsidy Funds	3,000,000
NYS LWRP	400,000
Equity - LIHTC	1,905,557
Equity - Brownfield	3,174,116
Equity - General Partner	<u>1,798,045</u>
Total	\$26,750,966

Use

Site Acquisition	\$ 0
Construction/demolition Costs	19,603,910
Professional Services	960,000
Finance Costs	1,373,930
Carrying Costs	100,000
Project Contingency	802,500
Fees/Permits	160,500
Development Fees	3,450,126
Working Capital	<u>300,000</u>
Total	\$26,750,966

A public hearing on the Consolidated Plan amendments is required.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-10
(Int. No. 5)

Authorizing Amendatory 2004-05, 2006-07 And 2007-08 Community
Development Program Plans, Amending Ordinance No. 2008-259
And Authorizing A Loan Agreement For The Erie Harbor Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves amendments to the Community Development Program Plans whereby, within the 2006-07 and 2007-08 Improving the Housing Stock and General Property Conditions allocations, the sum of \$250,000 in each year shall be transferred from the NBN Streetscapes Accounts to new Rental Housing Funds.

Section 2. The Council hereby approves an amendment to the 2004-05 Community Development Program Plan whereby, within the Improving the Housing Stock and General Property Conditions allocation, the sum of \$400,000 shall be transferred from the Relocation Assistance Account to the Rental Housing Fund.

Section 3. The Mayor is hereby authorized to enter into a loan agreement with Conifer Realty LLC, or an affiliated partnership or housing development fund corporation to be formed by Conifer Realty LLC, for the development of Erie Harbor. During construction, the City loan shall be provided as construction financing at a 1% interest rate. When the loan is converted to permanent financing, the loan shall extend for a term of 30 years, with interest at the rate of 1%. Annual interest-only payments shall be required during the term of the loan. Payment of principal shall be due in full at the end of the term. The

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Mayor is authorized to adjust the interest rate and other terms and conditions of the loan in order to conform to legal requirements for tax credits and for the Project.

Section 4. The loan agreement shall obligate the City to pay an amount not to exceed \$2,000,000, and of said amount, or so much thereof as may be necessary, \$1,100,000 is hereby appropriated from 2008-09 HOME Program Funds, \$250,000 is hereby appropriated from the Improving the Housing Stock and General Property Conditions allocation of the 2007-08 Community Development Program, \$250,000 is hereby appropriated from the Improving the Housing Stock and General Property Conditions allocation of the 2006-07 Community Development Program, and \$400,000 is hereby appropriated from the Improving the Housing Stock and General Property Conditions allocation of the 2004-05 Community Development Program.

Section 5. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 6. Ordinance No. 2008-259, relating to the redevelopment of River Park Commons, is hereby amended by reducing the amount appropriated for relocation assistance in Section 2 from the Improving the Housing Stock and General Property Conditions allocation of the 2004-05 Community Development Program by the sum of \$400,000, from \$500,000 to \$100,000, which amount is transferred and reappropriated herein.

Section 7. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Re: Ordinance No. 2009-11
Zoning Map Amendment -
Rezoning 431 W. Main Street
From C-2 Community Center
To CCD-M Center City
District - Main Street

Transmitted herewith for your approval is legislation amending the Zoning Map by rezoning the parcel at 431 W. Main Street from C-2 Community Center District to Center City District - Main Street (CCD-M). The property is owned by Hahn Automotive and used as a parking lot for the Hahn Automotive distribution facility located at 405-417 W. Main Street, located in the CCD-M district. The requested rezoning will provide consistent zoning designations for both the parking lot and the distribution facility.

Hahn Automotive recently donated an easement over a portion of the 431 W. Main Street parcel to the City to provide public access to the Troup Street Park from W. Main Street, and for the proposed installation of a historic marker to commemorate the location that Susan B. Anthony first voted in 1876. City Council accepted the easement in August 2008 (Ordinance No. 2008-292).

The easement area will serve as a buffer for any future development of the 431 W. Main Street parcel. New construction in the CCD-M district will require site plan approval. The property obtained temporary approval for parking from the City Planning Commission in June 2006.

Pursuant to the requirements of Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the City Code, the proposal is subject to environmental review.

The Planning Commission held an informational hearing on December 8, 2008. There were three speakers in support of this proposal and no speakers in opposition. By a vote of 4-0-0, the Commission recommended approval to City Council.

A public hearing on the zoning map amendment is required.

Respectfully submitted,
Robert J. Duffy

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Mayor

Attachment No. AI-4

Ordinance No. 2009-11
(Int. No. 6)

Changing The Zoning Classification Of 431 West Main Street
From C-2 Community Center To CCD-M Center City-Main Street

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Chapter 120 of the Municipal Code, Zoning Code, as amended, is hereby further amended by changing the zoning classification of the following parcel, constituting 431 West Main Street, from C-2 Community Center to CCD-M Center City -Main Street:

All that tract or parcel of land, situate in the City of Rochester, County of Monroe, State of New York, being part of Town Lot 51 of the 20,000 Acre Tract and being more particularly bounded and described as follows: Beginning at a point on the southerly ROW line of West Main Street (66' ROW) at the northeasterly corner of Third Ward Urban Renewal Disposition Parcel 43-B-4, said point also being 1048.66 feet northeasterly from the westerly ROW line of Reynolds Street (50' ROW) and being the Point or Place of Beginning; thence

- 1) Southerly along the easterly line of said Disposition Parcel 43-B-4, a distance of 340.95 feet to the southeasterly corner thereof; thence
- 2) Westerly, along the south line of said Disposition Parcel, a distance of 190.00 feet to the southwest corner thereof; thence
- 3) Northerly, along the westerly line of said Disposition Parcel and it's northerly extension, a distance of 318 feet, more or less, to the centerline of said West Main Street; thence
- 4) Northeasterly, along said centerline, a distance of 197 feet, more or less, to the northerly extension of said easterly line of Disposition Parcel 43-B-4; thence
- 5) Southerly, along said extension, a distance of 35 feet, more or less, to the said northeast corner of Disposition Parcel 43-B-4, being the Point or Place of Beginning.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2009-12
Zoning Map Amendment -
Rezoning Properties Between
488 and 546 S. Clinton Avenue
From C-2 Community Center to
CCD-B Center City District Base

Transmitted herewith for your approval is legislation amending the Zoning Map of the City of Rochester by rezoning 10 parcels on S. Clinton Avenue from C-2 Community Center District to Center City District - Base (CCD-B). The rezoning is requested by ABVI in conjunction with their proposed "Centennial Campus" development, an \$8.3 million project. Having all parcels within the same zoning designation will streamline the approval process and fulfill eligibility requirements for certain funding sources.

The ABVI offices and the Goodwill retail store, 422 and 429-455 S. Clinton Avenue, respectively, are located within the CCD-B zoning district. ABVI is requesting rezoning for the following properties it has purchased on S. Clinton Avenue:

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<u>Address</u>	<u>Use</u>
488	Single family - to remain
494	Single family - to be demolished
490, 498, 504, 506, 510, 514, 520	Vacant land
526-546 S. Clinton Avenue	24-hour call center/warehouse/distribution

The project area, 12 properties, is approximately 6.3 acres. The plans include a number of building demolitions; an 1,800 square-foot addition to consolidate and expand the ABVI Call Center; an 18,000 square-foot addition to the Vision Rehabilitation Center for the provision of family services and after school programs; alterations and renovations to the existing office building at 422 S. Clinton Avenue; alterations to expand the existing Goodwill retail store at 429 S. Clinton Avenue; and the construction of accessory parking. The redevelopment plan will occur in four phases commencing in 2009, with anticipated completion in 2011.

Pursuant to the requirements of Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the City Code, the proposal has been classified as unlisted; the Director of Zoning as lead agency has issued a negative declaration.

The Planning Commission held an informational hearing on December 8, 2008. There were no speakers in support or in opposition to the proposed rezoning. By a vote of 4-0-1, the Commission recommends approval to City Council.

A public hearing is required for the Zoning Map amendment.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-5

Ordinance No. 2009-12
(Int. No. 7)

Changing The Zoning Classification Of 488-546 South Clinton
Avenue From C-2 Community Center To CCD-B Center City-Base

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Chapter 120 of the Municipal Code, Zoning Code, as amended, is hereby further amended by changing the zoning classification of the following parcels, constituting 488-546 South Clinton Avenue, from C-2 Community Center to CCD-B Center City -Base:

All that tract or parcel of land, situate in the City of Rochester, County of Monroe, State of New York, being part of Town Lot 11, Township 8, Range 7 and being more particularly bounded and described as follows: Beginning at a point on the easterly ROW line of South Clinton Avenue (60' ROW) at the northwest corner of Lot 11, Section E of the Williams Tract, as filed in the Monroe County Clerk's Office in Liber 7 of Maps, Page 73, said corner being 521.41 feet north of the northerly ROW line of Alexander Street (54' ROW) and being the Point or Place of Beginning; thence

- 1) Northeasterly, along the north line of said Lot 11 and it's extension, a distance of 301 feet, more or less, to the center travel-way of NYS Interstate 490; thence
- 2) Southeasterly, along said center travel-way, a distance of 460 feet, more or less, to the easterly extension of the south line of Lot 12, Section P of said Williams Tract; thence
- 3) Southwesterly, along the south line of said Lot 12 and it's extension, a distance of 341 feet, more or less, to the centerline of said South Clinton Avenue; thence

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- 4) Northwesterly, along said centerline, a distance of 463 feet, more or less, to the westerly extension of said north line of Lot 11; thence
- 5) Northeasterly, along said extension, a distance of 30.0 feet to the said northwest corner of Lot 11, being the Point or Place of Beginning.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

Councilmember Palumbo moved to discharge Int. No. 19 from committee.

The motion was seconded by Councilmember Conklin.

The motion was adopted by the following vote:

Ayes - President Santiago, Councilmembers Conklin, Miller, Palumbo, Pritchard, Spaul - 6.

Nays - None - 0.

TO THE COUNCIL

Ladies and Gentlemen:

Re: Ordinance No. 2009-13
Amendatory Agreement - Enterprise
Community Partners, Focused
Investment Strategy Consulting

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with Enterprise Community Partners, Rochester, for continued support in the implementation of the Focused Investment Strategy (FIS); and appropriating \$60,000 from the Improving the Housing Stock and General Property Conditions allocation of the 2008-09 Community Development Block Grant to fund the additional cost.

This amendment will increase maximum compensation by \$60,000, for a total of \$122,500. The original agreement, authorized in July 2008, established maximum compensation at \$62,500 and a term of 12 months to expire June 30, 2009.

The Focused Investment Strategy involves concentrating a portion of the City's CDBG resources to observe a visible change in specific neighborhoods within three to five years. A community process determined the criteria for identifying neighborhoods for FIS. In August 2008, four FIS areas were approved:

Beechwood. Includes the High Priority Streets and extends north to Bay Street, Greeley to Melville to the east, Melville Street between Greeley and Webster, and Webster Avenue to Lamont Place on the west.

High Priority Streets: Webster Avenue between the park and Melville Street, and Rosewood Terrace between Webster Avenue and Greeley Street.

Impact Area: Includes the blocks bounded by Bay, Culver, Parsells and Webster/Ackerman.

Webster Avenue was selected because it is a gateway to Webster Park and the Thomas P. Ryan Center; there has been recent significant investment on Webster Avenue; it is adjacent to the Challenged Streets area. Rosewood Terrace was selected because it defines the border between the transitional high streets to the north and the distressed streets to the south.

Marketview Heights. Includes the High Priority Streets and the area bounded by the railroad and Central Park to the north, Scio Street between Lyndhurst and the railroad to the west; Main Street to the south and Price Street to the east.

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High Priority Streets: Union Street from Main Street and north to the Public Market; Lyndhurst and Weld Streets between Union and Scio; Main Street between Union and Prince; Kenilworth Terrace between Union and Prince.

Impact Area: Expected to include the area bounded by the Public Market and Central Park to the north and First Street to the east, Trinidad Street to the south; Scio Street to the west, and Main Street to the south.

Union Street was chosen as a High Priority Street because of its unique gateway quality to the Public Market. The other High Priority Streets to the west and east of Union were selected for different reasons. The streets to the west of Union Street will require more spot acquisitions and rehabilitation, demolitions, and vacant lot development. The streets to the east of Union will require mostly rehabilitation assistance to strengthen its owner-occupancy quality. The intent is to support and complement the major planned investments in the Public Market, Corpus Christi School, and the Dental Dispensary sites.

Jefferson Avenue. Includes the High Priority Streets and the blocks bounded by Troup Street to the north, Van Auker to the east, Adams Street to the south, and Jefferson Avenue to the west.

High Priority Streets: Jefferson Avenue between Tremont Street and Main Street; Clifton Street between Jefferson Avenue and Troup Street; and Troup between Prospect and Van Auker Street.

Impact Area: Expected to include the blocks along Main Street to the north, Dr. Samuel McCree Way to the south and Ford Street to the east. The Four-part Planning Initiative Area is also included.

The high priority streets were selected because of the on-going multi-million dollar investment in the Van Auker Apartments, the Jefferson Avenue visioning area for economic development, the recent development at Anthony Square, and the need for stabilization along the transitional streets.

Dewey Driving Park. Includes the High Priority Streets and the area bounded in the north by Selye Terrace between Dewey and Archer, to the east by Pierpont between Selye and Lexington, on the west by Archer and Oriole between Selye and Lexington, and to the south by Lexington between Oriole and Pierpont.

High Priority Streets: Dewey Avenue between Kislingbury and Lexington; Driving Park between Oriole and Pierpont.

Impact Area: Expected to include Bryan Street to the north, Lakeview Terrace and Tacoma on the east, Glenwood to the south, and Lark on the west.

The High Priority Streets were selected because of the recent investment in Price Rite, the high visibility and gateways, and the potential to attract services to benefit the surrounding residential uses. There is also a potential facade grant program for the commercial uses. To help ensure the success of this approach, implementation plans would be developed for each area and an implementation consultant would be engaged.

Since the City has an existing agreement with Enterprise to assist with FIS, it was decided that their services could be expanded to include completion of the implementation plans. Enterprise has national and other resources that will be helpful to the process. Attached is the budget and a detailed list of services to be performed.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-6

Ordinance No. 2009-13
(Int. No. 19)

January 20, 2009
Authorizing An Amendatory Agreement For The Focused
Investment Strategy

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an amendatory agreement with the Enterprise Community Partners for services related to the Focused Investment Strategy.

Section 2. The amendatory agreement shall obligate the City of Rochester to pay an amount not to exceed \$60,000, and said amount, or so much thereof as may be necessary, is hereby appropriated from the Improving the Housing Stock and General Property Conditions allocation of the 2008-09 Community Development Program.

Section 3. The amendatory agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

By Councilmember Lightfoot
January 20, 2009

To the Council:

The Parks & Public Works Committee recommends for Adoption the following entitled legislation:

Int. No. 9 - Establishing Maximum Compensation For A Professional Services Agreement For The Water Operations Center LEED Project

Int. No. 10 - Establishing Maximum Compensation For An Amendatory Professional Services Agreement For A Marina Market And Feasibility Study And Amending The 2008-09 Budget

Int. No. 21 - Establishing Maximum Compensation For A Professional Services Agreement For Water Testing Services

Int. No. 22 - Authorizing Agreements For Environmental Services

The Parks & Public Works Committee recommends for Consideration the following entitled legislation:

Int. No. 11 - Local Improvement Ordinance - Care And Embellishment Of Various Neighborhood Street Malls For 2009-10

The following entitled legislation is being Held in committee:

Int. No. 8 - Amending Ordinance No. 2003-347, Relating To The Apprenticeship Program

Respectfully submitted,
John F. Lightfoot
Adam C. McFadden
PARKS & PUBLIC WORKS COMMITTEE

Received, filed and published.

TO THE COUNCIL
Ladies and Gentlemen:

January 20, 2009

Ordinance No. 2009-14
Re: Agreement - CG Design Studio,
LEED Educational Display

Transmitted herewith for your approval is legislation establishing \$25,000 as maximum compensation for an agreement with CG Design Studio, LLC, Rochester, for the design, fabrication, and installation of an educational display for the Water Operations Center at 10 Felix Street. The cost of the agreement will be funded from bonds authorized in 2005 (Ord. No. 2005-92) for the construction of the Center (\$15,000); and from 2007-08 Cash Capital, Water Fund (\$10,000).

Leadership in Energy and Environmental Design (LEED) is a building rating system from the U.S. Green Building Council that recognizes buildings designed and built according to stringent standards for environmental conservation and occupant health and welfare. The Water Operations Center, certified at the LEED Gold level (the second highest qualifying standard), is the first municipal building in New York State to receive this award.

One of the requirements for Gold certification is the inclusion of an educational component. CG Design Studio will provide graphics and design services for a display that will inform employees and visitors of the unique features of the City's LEED Gold-standard Water Operations Center. The display will highlight the unique aspects of the Operations Center including energy and water conservation, brownfield redevelopment, and the building's construction and operation.

A request for proposals was issued in early Fall 2008, resulting in responses from five firms: CG Design Studio LLC, Bagley/Mooney Design Services, Frontline Advertising, K2 Communications Inc., and Pierrepont Visual Graphics. Based on staff review of the proposals and past experience, CG Design Studio, LLC was selected.

The display will be a permanent installation at the City's Water Operations Center, designed to last a minimum of fifteen years.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-14
(Int. No. 9)

Establishing Maximum Compensation For A Professional Services
Agreement For The Water Operations Center LEED Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$25,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and CG Design Studio, LLC for the design, fabrication and installation of a Leadership in Energy and Environmental Design (LEED) educational display for the Water Operations Center. Of said amount, \$15,000 shall be funded from Bond Ordinance No. 2005-92 and \$10,000 shall be funded from the 2007-08 Cash Capital allocation (Water Fund).

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-15
Re: Amendatory Agreement -
Abonmarche, Port of Rochester
Marina

January 20, 2009

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with Abonmarche, Michigan, for preliminary engineering design and environmental permitting services required to construct a public marina at the Port of Rochester; and amending the 2008-09 Budget by transferring \$310,000 from Contingency to Cash Capital to partially fund the additional cost.

The original agreement, authorized in March 2008 for the marina market and feasibility study, provided maximum compensation of \$181,000; this amendment will increase compensation by \$574,000 for a total of \$755,000. The additional cost will be funded from 2007-08 Cash Capital (\$56,000) and 2008-09 Cash Capital (\$518,000).

The market and feasibility study was completed by Abonmarche, with local consultant Passero Associates, in early Fall 2008 and has been reviewed by the Port Marina Advisory Group, community leaders, local developers, and the City's Port Implementation and Port Policy Teams. This process identified general support for the development of a marina, as well as modifications and improvements to the plan that have been incorporated into the plan.

Seven design concepts were presented during the review process; the preferred concept (see attached map) includes mixed residential and commercial development on and near the marina. Phase 1 will allow redevelopment without impact to parkland, features a public promenade surrounding the marina, permits development of commercial space and up to 86 residential units, and retains all of the parking lots that border on Ontario Beach Park.

Phase 1 will include public development of a 70-80 slip marina and allow private development of residential and retail space along Lake Avenue between Portside Drive and Corrigan Street. In Phase 2, the marina could expand to as many as 120 slips, and additional private development opportunities would be created. The total redevelopment of the Port site under the preferred plan would allow 280 to 430 residential units and about 575 public parking spaces in close proximity to Ontario Beach Park.

The preliminary cost estimate for Phase 1, including infrastructure, roadway modifications, marina construction, and public access areas, is \$15.9 million. Design, permitting, and construction are anticipated to take about three years. The preliminary estimate for Phase 2 is \$9.3 million. The marina development concept is consistent with the City's existing Local Waterfront Revitalization Plan (LWRP), and the pending amendment to the LWRP.

Under the amendatory agreement, Abonmarche and Passero Associates will perform all studies and preliminary engineering required to complete the federal and state permit requirements and to provide 30% design of the project. It is anticipated that these services will be completed by July 2010. Additional detailed design services will be required after permits have been received for the marina.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-7

Ordinance No. 2009-15
(Int. No. 10)

Establishing Maximum Compensation For An Amendatory
Professional Services Agreement For A Marina Market And
Feasibility Study And Amending The 2008-09 Budget

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$574,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an amendatory professional services agreement between the City and Abonmarche for a Marina Market and Feasibility Study for the Port of Rochester. Of said amount, \$518,000 shall be funded from the 2008-09 Cash Capital allocation and \$56,000 shall be funded from the 2007-08 Cash Capital allocation.

January 20, 2009

Section 2. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by transferring the sum of \$310,000 from the Contingency Account to the Cash Capital allocation to fund the agreement authorized herein.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-16
Re: Agreement - Life Sciences
Laboratories, Water Testing

Transmitted herewith for your approval is legislation establishing \$30,000 as maximum compensation for a three-year agreement with Life Science Laboratories of East Syracuse, New York, for laboratory testing of drinking water. The cost of the agreement will be financed from 2008-09 and future budgets of the Department of Environmental Services (Water Fund).

The existing water testing agreement, authorized by Council in February 2006, was for a three-year term with Life Science Laboratories expiring in February 2009. Historically, the City has contracted with commercial laboratories for mandated water testing when it is not cost-effective for the City's laboratory to perform the tests.

Proposals were solicited from six qualified laboratories, including two in Rochester, which did not respond. The four firms that did respond were Life Science Laboratories, Erie County Water Authority, Underwriters Laboratory (Indiana) and MWH Laboratories (California). Life Science Laboratories is recommended for a new three-year agreement based on efficiency and cost per sample. The company operates a satellite laboratory in Wayland, NY, a short distance from the City's Hemlock Water Quality Laboratory, which eliminates shipping costs and provides fast, easy pick-up of sample containers.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-16
(Int. No. 21)

Establishing Maximum Compensation For A Professional Services
Agreement For Water Testing Services

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$10,000, or so much thereof as may be necessary, is hereby established as the annual compensation to be paid for a professional services agreement between the City and Life Science Laboratories for laboratory testing of drinking water for three years. Said amount shall be funded from the 2008-09, 2009-10 and 2010-11 Budgets of the Department of Environmental Services (Water Fund), contingent upon approval of the latter budgets.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-17
Re: Agreements - Environmental Site
Assessment and Remedial Services

January 20, 2009

Transmitted herewith for your approval is legislation authorizing agreements with the following firms for environmental assessment, investigation, and remediation phase services:

Bergmann Associates, Rochester
Day Environmental, Inc., Rochester
LaBella Associates, P.C., Rochester
Leader Professional Services, Inc., Pittsford
Lu Engineers, Rochester
O'Brien & Gere Engineers, Inc., Rochester
Passero Associates, Rochester
Stantec Consulting Services, Inc., Henrietta
Tritech, Rochester

The agreements will be financed from the annual budgets of the departments using the services or from capital funds appropriated for specific environmental, construction and redevelopment projects.

Environmental site assessments are a prerequisite for properties that are involved in real estate transactions. Such assessments allow a prospective buyer to identify suspect environmental conditions, consider potential remediation costs during negotiations, plan for cleanup during redevelopment and avoid or limit liability for these costs.

Phase I site assessment services will include:

1. A review of title and deed history records, and other public records (including aerial photographs) that may contain relevant environmental information;
2. Governmental agency review (NYSDEC, City, MCDOH, etc.)
3. An inspection of the property and observation of adjacent properties; and
4. The preparation of a report with recommendations based on the findings.

Phase II investigation and environmental engineering and remedial services, if needed, will include:

1. The performance of subsurface soil and groundwater testing;
2. The collection and analysis of wastes, soil, and groundwater samples;
3. Identification of remedial options; and
4. The preparation of a report documenting findings and recommendations.

The City routinely performs site assessments prior to acquiring commercial and industrial properties. The most recent agreements for these assessments were authorized in October 2005.

In anticipation of the expiration of these agreements the Department of Environmental Services solicited proposals from eleven companies. Responses were received from nine firms, all of which are recommended.

When a specific department requires environmental assessment, environmental testing, or environmental remediation professional services, proposals from one or more of these companies will be requested. The selection of a company will depend upon the type of service required, the firm's ability to meet the City's schedule, and the quality and cost of the proposal.

The volume of projects depends on the needs of departments that are planning to acquire or sell property requiring assessment, testing, and remedial actions. The cost of the project-specific proposals will be based on the unit prices specified in each company's agreement with the City.

Each of the agreements will have an initial term of one year with provisions for renewal for two additional one-year periods based on mutual written agreement. If the agreements are renewed, adjustment to the specific unit prices for the third year will be permitted subject to the City's approval.

The total cost for the past three years for these agreements was \$1,272,281. Based on the current and projected work program, which is shifting toward larger projects, it is expected that the three-year cost for smaller projects that use the term agreements will be approximately \$ 1 million.

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Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-17
(Int. No. 22)

Authorizing Agreements For Environmental Services

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into agreements with the following companies for environmental site assessment, investigation and remediation services as required by the City:

<u>Company</u>	<u>Address</u>
Bergmann Associates	28 East Main Street
Day Environmental, Inc.	40 Commercial Street
LaBella Associates, P.C.	300 State Street
Leader Professional Services, Inc.	271 Marsh Road
Lu Engineers	39 State Street
O'Brien & Gere Engineers, Inc.	400 Andrews Street
Passero Associates	100 Liberty Pole Way
Stantec Consulting Services, Inc.	2250 Brighton-Henrietta Town Line Road
Tritech	1100 University Avenue

Section 2. Each agreement shall have a term of one year, with provision for renewal for two additional one year terms. Each agreement shall provide for an assessment to be performed on an as needed basis, and shall establish a unit price to be paid for a particular assessment. The unit price may be adjusted during the second renewal term with the approval of the City Engineer. The cost of said assessment shall be funded from the annual budget or from project appropriations.

Section 3. The agreements shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

Councilmember Pritchard moved to return Int. No. 11 to committee.

The motion was seconded by Councilmember Palumbo.

The motion was adopted by the following vote:

Ayes - President Santiago, Councilmembers Conklin, Miller, Palumbo, Pritchard, Spaul - 6.

Nays - None - 0.

TO THE COUNCIL
Ladies and Gentlemen:

Introductory No. 11
Re: Care and Embellishment of Malls

Transmitted herewith for your approval is legislation authorizing the care and embellishment of street malls during 2009 and appropriating the associated costs of \$81,285 among the benefitted properties.

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The annual care and embellishment program provides for the maintenance of 24 street malls, by either the Department of Recreation and Youth Services or street and neighborhood associations. Minimum standards of maintenance are established by the department, and the associations are offered the opportunity to assume responsibility for maintenance.

Associations that do assume responsibility may augment or enhance the level of care, subject to the willingness of the property owners on the affected street to pay the additional costs. All maintenance, however, is monitored by the department.

The costs of the maintenance are apportioned among the benefitted properties on the basis of the specified unit charges for each area. Charges are included on the annual tax bill and are payable in July. The department advances the necessary funds to the street and neighborhood associations.

In 2008, 12 malls were maintained by the department and 12 malls were maintained by street and neighborhood associations. The total authorized costs were \$34,716 and \$43,493, respectively.

In 2009, the department will be responsible for the maintenance of 12 malls (Group I) at a total cost of \$36,451; street and neighborhood associations will be responsible for the maintenance of 12 malls (Group II) at a total cost of \$44,834.

A public hearing on the assessments is required.

Respectfully submitted,
Robert J. Duffy
Mayor

Introductory No. 11

LOCAL IMPROVEMENT ORDINANCE - CARE AND
EMBELLISHMENT OF VARIOUS NEIGHBORHOOD STREET
MALLS FOR 2009-10

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. It is hereby determined that the following improvements and work are necessary, required and shall be made:

- a. The care and embellishment of the following streets hereinafter referred to as "Group I" during 2009-10:

GROUP I	Boulevard Parkway	\$ 2,129
	Burke Terrace	467
	Carthage Drive	589
	Central Park	5,331
	Elmwood Mall	3,315
	Glendale Park	1,774
	Knickerbocker Street	1,774
	Nye Park	1,893
	Raines Park	1,182
	Seneca Parkway	12,790
	Sumner Park	3,078
	Werner Park	<u>2,129</u>
Group I Total		\$36,451

- b. The care and embellishment of the following streets hereinafter referred to as "Group II" during 2009-10:

GROUP II	Arnold Park	\$ 2,800
	Hazelwood Terrace	1,630
	Highland Parkway	2,100
	Hillside Avenue	6,000
	Huntington Park	3,600

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	Lafayette Park	2,832
	Lakeview Park	4,800
	Nunda Boulevard	6,650
	Oxford Street	7,062
	Portsmouth Terrace	2,500
	Rundel Park	2,000
	Sibley Place	<u>2,860</u>
Group II Total		<u>\$44,834</u>
Grand Total		\$81,285

Section 2. The district of assessment for each street mall shall consist of all the parcels of property that front on the mall, or on any extension of the street or streets containing the mall up to the next intersecting street. The cost of maintenance of each street mall, in the amount set forth in Section 1, shall be apportioned among the parcels in the district based on each parcel's footage along the street containing the mall.

Section 3. Assessments for the cost of such improvements and work shall be due in one payment and shall be added to the tax rolls for the fiscal year commencing July 1, 2009.

Section 4. The total cost of such improvements and work, estimated at \$81,285, shall be charged as heretofore described in this ordinance and paid from the General Fund, and said amount, or so much thereof as may be necessary, is hereby appropriated for the aforesaid purpose.

Section 5. The work described for Group I shall be performed by or at the direction of the Department of Recreation and Youth Services.

Section 6. It is hereby determined that it is impracticable to have the work described herein for Group II done by competitive contract. Therefore, contracts for the work described herein for Group II may be awarded to such qualified persons or neighborhood associations as may be selected from those located in or adjacent to the aforementioned streets and areas.

Section 7. This ordinance shall take effect immediately.

Item returned to committee.

TO THE COUNCIL

Ladies and Gentlemen:

Introductory No. 8

Re: Amending Ordinance No. 2003-347,
Apprenticeship Programs

Transmitted herewith for your approval is legislation amending Ordinance No. 2003-347 to extend apprenticeship program requirements to subcontracts over \$100,000 as a condition of award of certain public works contracts.

The purpose of the amendment is to broaden program coverage to large subcontracts, increasing employment opportunities for City residents. New York State Labor Law, as amended in 2001 (Chapter 571) authorizes municipalities to require contractors and subcontractors to participate in an apprenticeship training program as a condition of the award of a public works contract.

Ordinance No. 2003-347 requires that any prime contractor on certain City construction contracts that exceed \$250,000 to have apprenticeship agreements, approved by the New York State Department of Labor, prior to award of the contract. The proposed amendment will extend the requirement to any subcontractor on a City construction contract when the prime contract exceeds \$250,000, and the subcontract exceeds \$100,000.

Contractors with collective bargaining agreements already have access to and utilize apprentices enrolled in union-sponsored apprenticeship training programs. As a result of the City requirement, additional contractors have developed and received New York State Department of Labor approval for sponsorship of their own apprenticeship training, and have likewise employed apprentices on City construction contracts.

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Based on prior project experience, the apprenticeship training requirement can successfully be applied to large subcontracts involved in major City construction contracts to broaden the program's coverage.

Respectfully submitted,
Robert J. Duffy
Mayor

Introductory No. 8

AMENDING ORDINANCE NO. 2003-347, RELATING TO THE
APPRENTICESHIP PROGRAM

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Ordinance No. 2003-347, relating to the Apprenticeship Program, is hereby amended by amending Sections 2, 3, and 4 thereof to read in their entirety as follows:

Section 2. For the purposes of this ordinance, a "construction contract" shall mean any City public works contract for an amount in excess of \$250,000, or any subcontract thereto in excess of \$100,000, for construction, reconstruction or improvement of any building, facility or physical structure of any kind.

Section 3. The term "contractor" shall mean a contractor or a subcontractor which directly employs labor under a construction contract.

Section 4. The City of Rochester hereby requires any contractor, prior to entering into a construction contract with the City of Rochester or with another contractor, to have apprenticeship agreements, appropriate for the type and scope of work to be performed, which have been registered with and approved by the New York State Commissioner of Labor in accordance with Article 23 of the New York State Labor Law.

Section 2. This ordinance shall take effect immediately.

Item held.

By Councilmember Miller
January 20, 2009

To the Council:

The Economic Development & The Environment Committee recommends for Adoption the following entitled legislation:

Int. No. 12 - Establishing Maximum Compensation For An Amendatory Professional Services Agreement For Municipal Parking Services

Int. No. 418 - Authorizing A New Agreement For The Lease Of Space In The South Avenue Parking Garage, As Amended

The following entitled legislation is being Held in committee:

Int. No. 23 - Approving The Sale Of Former Railroad Right Of Way East Of 476 State Street

Respectfully submitted,
Dana K. Miller
Elaine M. Spaul
ECONOMIC DEVELOPMENT & THE ENVIRONMENT COMMITTEE

January 20, 2009

Received, filed and published.

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-18
Re: Amendatory Agreement - Shamrock
Training and Consulting, Municipal
Parking Services

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with Shamrock Training and Consulting (Principal, Dave Keefe), for continued municipal parking and operational consulting services. This amendment will increase maximum compensation by \$13,000 and extend the term of the agreement to June 30, 2009. The additional cost will be funded from the 2008-09 Budget of the Economic Development Department.

Mr. Keefe has been under contract in the municipal parking office since July 28, 2008. The original contract was for \$9,500, which was amended by Ordinance 2008-363 to a total of \$25,000 with a term ending January 31, 2009. This second amendment will add an additional 250 hours of consulting services at \$50 per hour, and \$500 of authorized reimbursable expenses for a total additional contract cost of \$13,000, increasing the maximum total compensation to \$38,000.

Additional consulting services are required to complete organizational change recommendations to provide better customer service, improve operations, and increase the investment return on the City's parking assets.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-18
(Int. No. 12)

Establishing Maximum Compensation For An Amendatory
Professional Services Agreement For Municipal Parking Services

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$13,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an amendatory professional services agreement between the City and Shamrock Training and Consulting for municipal parking consulting services. Said amount shall be funded from the 2008-09 Budget of the Economic Development Department.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

Introductory No. _____ was introduced _____ and appears in its original form with its transmittal letter on page _____ of the 2008 Council Proceedings.

Attachment No. AI-8

Ordinance No. 2009-19
(Int. No. 418, As Amended)

Authorizing A New Agreement For The Lease Of Space In The
South Avenue Parking Garage

January 20, 2009

WHEREAS, the City of Rochester has received a proposal for the lease of space in the South Avenue Parking Garage to the Hyatt Corporation for a term of five years, with options to renew for four additional five year terms; and

WHEREAS, pursuant to Section 21-23 of the Municipal Code, the Council is required to follow additional procedures due to the length of the proposed lease; and

WHEREAS, the Council has formally reviewed the appraisal of the independent consultant on the value of the lease; and

WHEREAS, the Council affirmatively finds that the proposed lease is in the public interest, as the public benefit to be derived from the lease is the provision of office and storage space necessary for the operation of the adjacent Hyatt Hotel.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to terminate the existing lease and to enter into a new agreement for the lease of office and storage space and storage closets in the South Avenue Parking Garage to the Hyatt Corporation. The agreement shall extend for a term of five years, with options to renew for four additional five year terms.

Section 2. The lease agreement shall obligate the Hyatt Corporation during the initial term to pay annual rent to the City in the amount of \$[19,775] 33,300. Rent during the option terms shall be at market value as established through an appraisal.

Section 3. The lease agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Bracketed material deleted; underlined material added.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Introductory No. 23
Re: Sale of Real Estate - Phoenix
Graphics

Transmitted herewith for your approval is legislation authorizing the sale of a portion of a City-owned parcel of former railroad land east of 476 State Street to Phoenix Graphics, Inc. The area to be conveyed is approximately 1.2 acres. The sale price of \$103,038 was determined by an independent appraisal prepared by Robert Pogel.

Phoenix Graphics is a commercial printer in business since 1985, and currently owns buildings at 464, 470, and 476 State Street. They have made significant investments in their facilities, including an addition to one building. The parcel to be purchased is located directly behind and adjacent to the company's State Street facilities.

As a result of business growth, Phoenix needs to expand their facility by approximately 13,500 square feet. They propose to build a stand-alone building on the railroad land, adjacent to their existing campus. Construction is anticipated to start in Spring 2009 and be operational by Fall 2009. Total project cost, including construction of the new facility and purchase of machinery and equipment, is estimated at \$3.2 million.

The company employs 26 workers currently, and expects to create 10 new jobs over the next three years. In addition, 40 seasonal workers will be added for the July through November period each year.

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The 1.2 acre vacant property to be conveyed is part of the former CSX rail corridor acquired by the City in 2006. Phoenix will acquire the property in "as is" condition. In September 2007 Phoenix acquired .678 acres of this railroad parcel to be used for parking.

The City will retain the balance of the parcel for the El Camino-Butterhole Trail.

Pursuant to the requirements of Article 8 of the NYS Environmental Conservation Law and Chapter 48 of the City Code, it has been determined that the proposed sale will not result in any significant effects. A negative declaration has been issued.

Respectfully submitted,
Robert J. Duffy
Mayor

Introductory No. 23

APPROVING THE SALE OF FORMER RAILROAD RIGHT OF
WAY EAST OF 476 STATE STREET

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the sale of a portion of a City-owned parcel of former railroad right of way east of 476 State Street, comprising approximately 1.2 acres, to Phoenix Graphics, Inc. for the sum of \$103,038.

Section 2. This ordinance shall take effect immediately.

Item held.

By Councilmember McFadden
January 20, 2009

To the Council:

The Public Safety & Recreation Committee recommends for Adoption the following entitled legislation:

Int. No. 13 - Authorizing An Agreement And Amending The 2008-09 Budget For An After School Program And Amending Ordinance No. 2008-433 And The 2008-09 Budget, As Amended

Int. No. 14 - Authorizing An Agreement Relating To Construction Services At The Clinton Baden Community Center

Int. No. 25 - Authorizing An Agreement Relating To Reimbursement For School Resource Officers

Int. No. 26 - Establishing Maximum Compensation For An Amendatory Professional Services Agreement For Fitness And Nutrition Classes

Int. No. 27 - Establishing Maximum Compensation For An Agreement For Drug And Alcohol Abuse Prevention

Int. No. 28 - Authorizing An Application And Agreement For The Selective Traffic Enforcement Program And Amending The 2008-09 Budget

Int. No. 29 - Authorizing An Application And Agreement For The Motor Vehicle Theft And Insurance Fraud Prevention Program And Amending The 2008-09 Budget

The Public Safety & Recreation Committee recommends for Consideration the following entitled legislation:

January 20, 2009

Int. No. 15 - Authorizing An Amendatory 2006-07 Community Development Program Plan To Transfer Funds To The Job Creation/Youth Development Account

The following entitled legislation is being Held in committee:

Int. No. 24 - Establishing Maximum Compensation For A Professional Services Agreement For Psychological Evaluation Services For The Rochester Police Department

Respectfully submitted,
Adam C. McFadden
Dana K. Miller
Elaine M. Spaul
PUBLIC SAFETY & RECREATION COMMITTEE

Received, filed and published.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2009-20
Agreement - Rochester Area
Community Foundation, After
School Programs

Transmitted herewith for your approval is legislation authorizing an agreement with the Rochester Area Community Foundation for receipt and use of a \$25,000 grant, and amending the 2008-09 Budget of the Department of Recreation and Youth Services to reflect the grant.

These funds will support after school programs for 100 students at Henry Hudson School #28 from January 5 to May 29, 2009.

In 2007-08, 99 students participated - 40 boys and 59 girls; ethnically, the breakdown of participants was: African-American 58; Hispanic 28, Caucasian 6, and Other 7.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-20
(Int. No. 13, As Amended)

Authorizing An Agreement And Amending The 2008-09 Budget For
An After School Program And Amending Ordinance No. 2008-433
And The 2008-09 Budget

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with the Rochester Area Community Foundation for funding for an after school program at Henry Hudson School No. 28.

Section 2. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by increasing the revenue estimates and appropriations to the Department of Recreation and Youth Services by the sum of \$25,000, which amount is hereby appropriated from funds to be received under the grant agreement authorized herein.

Section 4. Ordinance No. 2008-433, relating to an agreement with the Rochester Area Community Foundation for a community-wide effort to reinstate child care subsidies for working poor families, is

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hereby amended by changing the source of funds from the Contingency Account of the 2008-09 Budget to the 2008-09 Budget of the Department of Recreation and Youth Services.

Section 5. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by transferring the sum of \$50,000 from the Contingency Account to the Department of Recreation and Youth Services to fund the child care agreement.

Section 6. This ordinance shall take effect immediately.

Underlined material added.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-21
Re: Agreement - Rochester City School
District, Clinton-Baden Community
Center

Transmitted herewith for your approval is legislation establishing \$1,000,000 as maximum compensation for an agreement with the Rochester City School District for construction services at the Clinton-Baden Community Center located at 485 N. Clinton Avenue. The cost of this agreement will be funded from 2008-09 Cash Capital.

Ordinance No. 2007-395 authorized the extension of an agreement between the City, the District and the Baden Street Settlement, allowing the District to use this City-owned property which is operated by Baden Street Settlement under a separate license agreement. The District uses the Center's two gyms, pool, and some meeting room space.

The District will undertake comprehensive rehabilitation of the facility including: improvements to the exterior facade, roof renovation, upgrade of the HVAC system, and lighting improvements. The project is expected to begin in Spring 2009 and will be completed by September 2010.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-21
(Int. No. 14)

Authorizing An Agreement Relating To Construction Services At
The Clinton-Baden Community Center

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with the Rochester City School District whereby the City will fund construction services at the Clinton-Baden Community Center.

Section 2. The agreement shall obligate the City to pay an amount not to exceed \$1,000,000, and said amount, or so much thereof as may be necessary, shall be funded from the 2008-09 Cash Capital allocation.

Section 3. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

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TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-22
Re: Agreement - Rochester City School
District, School Resource Officers

Transmitted herewith for your approval is legislation authorizing an agreement with the Rochester City School District (RCSD) for the receipt and use of \$1,100,000 to reimburse the cost of providing sworn City of Rochester police personnel to serve as School Resource Officers (SROs) in RCSD schools. The first agreement and reimbursement were initiated with the implementation of the 2007-08 City approved budget. This legislation will continue the practice of RCSD reimbursing the City for the use of sworn police personnel in schools.

Police Officers have been assigned to District schools as SROs since 1999 to assist in maintaining a safe school environment. Some of their duties include functioning as role models for students, providing police presence, and handling calls for service that originate within the school setting.

The cost of the SRO program was initially primarily covered by a federal Community Oriented Policing Services in School grant program. This program was designed to enable communities to hire new police officers and encourage working relationships between police and schools, thus bringing the principles and philosophy of community policing directly into the school environment.

The percentage of federal reimbursement has decreased over the term of the program, with the final federal reimbursement to the City in 2002-03. A condition of the grant program was that the City was obligated to retain the additional positions for at least one year after the expiration of the grant and be responsible for 100% of the cost. The City had funded 100% of the cost of these positions through fiscal year 2007-08 at which time RCSD agreed to fund the program and made their first reimbursement to the City.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-22
(Int. No. 25)

Authorizing An Agreement Relating To Reimbursement For School
Resource Officers

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with the Rochester City School District for funding to reimburse the City for School Resource Officers placed in City Schools.

Section 2. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-23
Re: Agreement - Tamiko Byrd, Fitness
And Nutrition Instruction

January 20, 2009

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with Tamiko Byrd, Rochester, for additional fitness and nutrition classes at various City sites. The additional cost of \$7,290 will bring total maximum compensation for the agreement to \$17,212. The additional cost will be funded from the 2008-09 Budget of the Department of Recreation and Youth Services. A grant from the Greater Rochester Health Foundation, previously included in the Budget (Ordinance No. 2008-395), supports this agreement.

The "Soul Fitness" classes offered by Ms. Byrd, who is certified through the YMCA of America, combine nutritional and behavioral education with low-impact aerobic exercise set to hip hop music. The nutritional program includes information on calories, cholesterol, the food pyramid, and food preparation according to the American Heart Association.

Classes will be available at North Street, Avenue D, Adams St., Edgerton, Flint St., South Ave., and Webster Avenue recreation centers as well as John Marshall High School from January 5 to December 31, 2009.

There has been strong demand for these courses from both youth and adults at City Recreation sites; currently there are over 200 participants age 6 and above. This program engages youth in new ventures, enabling them to express themselves in a healthful way.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-23
(Int. No. 26)

Establishing Maximum Compensation For An Amendatory
Professional Services Agreement For Fitness And Nutrition Classes

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$7,290, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an amendatory professional services agreement between the City and Tamiko Byrd for fitness and nutrition classes. Said amount shall be funded from the 2008-09 Budget of the Department of Recreation and Youth Services.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-24
Re: Agreement - Coordinated Care
Services, Inc.

Transmitted herewith for your approval is legislation establishing \$3,000 as maximum compensation for an agreement with Coordinated Care Services, Inc. (CCSI) for continued services related to the administration of a community mini-grant program (HEART Coalition) which funds drug and alcohol abuse prevention projects. The cost of this agreement will be funded through the 2008-09 Budget of the Department of Recreation and Youth Services, by a grant from the US Department of Health and Human Services.

This is the second year that CCSI has provided these services, which include: distribution and promotion of the grant application; coordination of applicant interviews; review of the applications; and determining awards. They will also provide technical assistance to grant applicants and recipients and conduct site visits to successful grantees. Encouraging and funding community-based outreach projects is a requirement of this grant.

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Although this agreement does not meet the threshold required for Council authorization, CCSI has two existing agreements with the City: \$13,900 for Biz Kid\$ (Ord. No. 2008-73), and \$114,268 for the Rochester After School Academy (Ord. No. 2008-242).

The term of this agreement will be January 30 through September 29, 2009.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-24
(Int. No. 27)

Establishing Maximum Compensation For An Agreement For Drug
And Alcohol Abuse Prevention

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$3,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an agreement between the City and Coordinated Care Services, Inc. for the administration of drug and alcohol abuse prevention projects. Said amount shall be funded from the 2008-09 Budget of the Department of Recreation and Youth Services.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2009-25
Governor's Traffic Safety Committee,
Selective Traffic Enforcement
Program

Transmitted herewith for your approval is legislation authorizing an agreement with the New York State Governor's Traffic Safety Committee (GTSC) for the receipt and use of a grant in the amount of \$37,826, under the Selective Traffic Enforcement Program (STEP) Aggressive Driving Program for the period October 1, 2008 through September 30, 2009 and amending the 2008-09 Police Department Budget by \$27,800. This reflects the appropriation of a prorated portion of the new award. The remainder will be included in the 2009-10 Budget.

The STEP program is aimed at reducing motor vehicle accidents resulting from unsafe or aggressive driving, including speeding and failure to observe traffic control devices. GTSC will reimburse the overtime salaries of sworn officers to conduct special enforcement details, targeting locations with a high incidence of accidents. Enforcement strategies include the use of Laser RADAR speed detection and saturation patrols with marked and unmarked police vehicles. During the previous funding period, 876 citations were issued to motorists for infractions related to unsafe or aggressive driving. This is the seventh year of GTSC funding to the City under this program. A grant for the STEP program was most recently approved in January 2008.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-25
(Int. No. 28)

Authorizing An Application And Agreement For The Selective
Traffic Enforcement Program And Amending The 2008-09 Budget

January 20, 2009

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to submit an application to and enter into an agreement with the Governor's Traffic Safety Committee for funding for the Selective Traffic Enforcement Program (STEP).

Section 2. The application and agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by increasing the revenue estimates and appropriations to the Rochester Police Department by the sum of \$27,800, which amount is hereby appropriated from funds to be received under the grant agreement authorized herein.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-26
Re: Motor Vehicle Theft and Insurance
Fraud Prevention Program

Transmitted herewith for your approval is legislation authorizing an agreement with the New York State Division of Criminal Justice Services for the application for, and receipt and use of, a \$58,808 grant under the Motor Vehicle Theft and Insurance Fraud Prevention Program (MVTIFP) for the period April 1, 2009 through March 30, 2010, and amending the 2008-09 Budget of the Police Department by \$14,700. The remainder will be appropriated in the 2009-10 Budget.

The MVTIFP Program provides funding for the reduction of auto theft and insurance fraud in the City of Rochester through enhanced efforts of the Police Department, including deployment in high theft areas and increased investigative efforts to arrest individuals who commit insurance fraud. The grant will also be used to train police officers in specialized anti-theft techniques and technology usage.

The previous MVTIFP award was authorized by City Council in January 2008. During the last grant period there were 1,356 investigations of auto theft opened, with over 464 arrests made and over \$6,000,000 in stolen vehicles recovered. Grant funded activity has contributed to a 22% reduction in stolen vehicles. No local match is required for this grant.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-26
(Int. No. 29)

Authorizing An Application And Agreement For The Motor Vehicle
Theft And Insurance Fraud Prevention Program And Amending
The 2008-09 Budget

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to submit an application to and enter into an agreement with the New York State Division of Criminal Justice Services for funding under the Motor Vehicle Theft and Insurance Fraud Prevention Program.

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Section 2. The application and agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by increasing the revenue estimates and appropriations to the Rochester Police Department by the sum of \$14,700, which amount is hereby appropriated from funds to be received under the grant agreement authorized herein.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2009-27
Amending the Consolidated
Community Development Plan -
General Community Needs

Transmitted herewith for your approval is legislation amending the 2006-07 Consolidated Community Development Plan by transferring \$50,000 from the Human Services Staff Account and \$15,000 from the Emergency Transitional Fund Account to the Job Creation/Youth Development Account.

This transfer will replenish funds that were previously transferred out of the account and will be used to support job creation efforts and youth development programming within the Department of Recreation and Youth Services.

A public hearing on the Plan amendment is required.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-27
(Int. No. 15)

Authorizing An Amendatory 2006-07 Community Development
Program Plan To Transfer Funds To The Job Creation/Youth
Development Account

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves amendments to the 2006-07 Community Development Program Plan whereby, within the General Community Needs allocation, the sum of \$50,000 shall be transferred from the Human Services Staff Account, and the sum of \$15,000 shall be transferred from the Emergency/Transitional Account, to the Job Creation/Youth Development Account.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Introductory No. 24
Agreement - Law Enforcement
Psychological Associates, Fitness
Evaluations

January 20, 2009

Transmitted for your approval is legislation establishing \$10,000 as maximum compensation for an agreement with Law Enforcement Psychological Associates (LEPA), with offices located at 448 White Spruce Boulevard, Rochester. The cost of this agreement will be funded from the 2008-09 Budget of the Police Department.

LEPA will continue to provide psychological fitness for duty evaluations for the Police Department during 2008-09. The consultant has provided this service for several years with an annual cost of between \$7,000 and \$10,000 financed from the Budgets of the Police Department.

Although this agreement does not reach the threshold required for Council authorization, it should be noted that the firm is also currently under contract with the Police Department to provide pre-employment psychological evaluations of police officer recruit candidates, with maximum compensation established at \$130,000 (Ordinance No. 2004-150).

Respectfully submitted,
Robert J. Duffy
Mayor

Introductory No. 24

ESTABLISHING MAXIMUM COMPENSATION FOR A
PROFESSIONAL SERVICES AGREEMENT FOR
PSYCHOLOGICAL EVALUATION SERVICES FOR THE
ROCHESTER POLICE DEPARTMENT

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$10,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and Law Enforcement Psychological Associates for psychological fitness for duty evaluations for the Rochester Police Department. Said amount shall be funded from the 2008-09 Budget of the Rochester Police Department.

Section 2. This ordinance shall take effect immediately.

Item held.

The meeting was adjourned at 8:35 P.M.

DANIEL B. KARIN
City Clerk